

08:35AM

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

- - - - - X  
 UNITED STATES OF AMERICA ) 15CR142  
 )  
 vs.  
 Buffalo, New York  
 DAVID PIRK, ANDRE JENKINS &  
 TIMOTHY ENIX, ) April 18, 2018  
 Defendants. 8:42 a.m.

- - - - - X  
**TRIAL - VOLUME 40 - TESTIMONY OF E. GREEN & T. HALEY**

TRANSCRIPT OF PROCEEDINGS  
 BEFORE THE HONORABLE ELIZABETH A. WOLFORD  
 UNITED STATES DISTRICT JUDGE

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I N D E X

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THE GOVERNMENT

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2 P R O C E E D I N G S

3 \* \* \*

4  
5  
08:44AM 6 THE COURT: Who is on deck?

08:44AM 7 MR. TRIPI: Green, and we'll discuss a brief  
08:44AM 8 stipulation regarding Hartigan and send him home. And  
08:44AM 9 depending on how far we get today, we'll be ready to go with  
08:44AM 10 Donnelly and perhaps DePasquale and then Agent Mango and then  
08:44AM 11 that certainly would get us through today, I would think. I  
08:44AM 12 don't think we'll get to Mango, though.

08:44AM 13 THE COURT: One can always hope.

08:44AM 14 MR. TRIPI: We'll see how far we get because I  
08:44AM 15 would just fill the rest of the day.

08:44AM 16 THE COURT: I need a heads up.

08:44AM 17 MR. TRIPI: You won't miss your chance to cross  
08:44AM 18 him.

08:44AM 19 MR. COVERT: I need to prepare day and night.

08:45AM 20 THE COURT: But your third presentation, Agent  
08:45AM 21 Mango planned to address the Cellebrite records, which you  
08:45AM 22 never did.

08:45AM 23 MR. TRIPI: I only briefly touched on them a few  
08:45AM 24 more Facebook messages that he has prepared.

08:45AM 25 THE COURT: To read into the record?

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08:45AM 2 MR. TRIPI: Not necessarily read them into the  
08:45AM 3 record, but put them into evidence.

08:45AM 4 THE COURT: All right.

08:45AM 5 MR. TRIPI: And then the searches of Enix's  
08:45AM 6 devices.

08:45AM 7 THE COURT: When do we need to address the guns  
08:45AM 8 that were seized from Mr. Pirk and Mr. Enix?

08:45AM 9 MR. TRIPI: That will be before DePasquale were to  
08:45AM 10 testify.

08:45AM 11 THE COURT: We should do that today, right?

08:46AM 12 MR. TRIPI: Yes, that would be great.

08:46AM 13 THE COURT: At some point. Do you have the  
08:46AM 14 photographs and everything?

08:46AM 15 MR. TRIPI: Yes. We got them loaded in the  
08:46AM 16 computer from the first search of the Enix's house and we can  
08:46AM 17 show you what is seized.

08:46AM 18 THE COURT: Let me ask you, a the request depends  
08:46AM 19 on what we get through today. Let's say we don't get to  
08:46AM 20 Donnelly today. Would your plan be to go with him tomorrow or  
08:46AM 21 go with other witnesses tomorrow?

08:46AM 22 MR. TRIPI: No, if I don't get that far today,  
08:46AM 23 tomorrow would be Matthew Allen. He is from D.C., so he has  
08:46AM 24 been working in Rochester for the week to be available. So he  
08:46AM 25 is coming to Buffalo tonight and I'll meet with him tonight

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08:46AM 2 briefly to call him tomorrow.

08:46AM 3 MR. CONNORS: Tomorrow is Thursday.

08:46AM 4 MR. TRIPI: So I think he is an hour on direct and  
08:47AM 5 the cross primarily related to Mr. Pirk and Mr. Jenkins, so I  
08:47AM 6 don't know what they anticipate the cross for him.

08:47AM 7 MR. CONNORS: But do you think that would be all  
08:47AM 8 of Thursday with Allen?

08:47AM 9 MR. TRIPI: No. If we don't get to Donnelly and  
08:47AM 10 DePasquale today, Allen and they would fall in line after  
08:47AM 11 Allen. Am I making any sentence?

08:47AM 12 THE COURT: Yes, no, you are. So we need to  
08:47AM 13 address the gun issue and I think we need to do that with  
08:47AM 14 Donnelly or DePasquale.

08:47AM 15 MR. TRIPI: Two searches in Florida. The first  
08:47AM 16 one was DePasquale. That was the gun and additional items that  
08:47AM 17 were not guns. And then a few months later, I might have my  
08:47AM 18 dates off, he is not my witness. A few months later, Donnelly  
08:47AM 19 goes back and searches and seizes some electronic devices, and  
08:47AM 20 those electronic devices ultimately are analyzed by Agent  
08:48AM 21 Mango. So Agent Mango is the brass tacks of it and Donnelly  
08:48AM 22 just brought it from A to B, not to minimize his role.

08:48AM 23 THE COURT: You don't need that evidence in before  
08:48AM 24 you have Matt Allen testify?

08:48AM 25 MR. TRIPI: Those phones, no. Matt Allen's

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08:48AM 2 testimony relates to cell tower records that are already in  
08:48AM 3 evidence.

08:48AM 4 THE COURT: My point is before DePasquale gets on  
08:48AM 5 the stand, we have to address --

08:48AM 6 MR. TRIPI: The scope of his permissible --

08:48AM 7 THE COURT: -- the scope of his permissible  
08:48AM 8 testimony.

08:48AM 9 MR. TRIPI: That's fine.

08:48AM 10 MR. CONNORS: You had something scheduled tomorrow  
08:48AM 11 at the end of the day.

08:48AM 12 THE COURT: To go over the exhibits to coordinate  
08:48AM 13 to make sure we're all on the same page.

08:48AM 14 MR. CONNORS: In terms of what's in evidence.

08:48AM 15 THE COURT: And I'm assuming, Ms. Prawel, you can  
08:48AM 16 circulate an updated exhibit list.

08:48AM 17 MS. PRAWEL: Yes. I've been in touch with Sandra  
08:49AM 18 and Alex from Mr. Covert's office. We're reconciling as we go,  
08:49AM 19 so we should have something to compare to.

08:49AM 20 THE COURT: All right. Anything else from the  
08:49AM 21 government that we need to talk about?

08:49AM 22 MR. TRIPI: No. Before redirect of Mr. Haley, we  
08:49AM 23 might need a moment, but nothing at this juncture.

08:49AM 24 THE COURT: Mr. Easton or Ms. Meyers Buth?

08:49AM 25 MR. EASTON: No, your Honor.

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08:50AM 2 MR. COVERT: No, we were going to ask for a moment  
08:50AM 3 before redirect.

08:50AM 4 MR. CONNORS: And if we could have a moment before  
08:50AM 5 the redirect of Green, also.

08:50AM 6 MR. TRIPI: We're adding up the moments a lot of  
08:50AM 7 moments.

08:50AM 8 THE COURT: I mean, I'm not -- I looked at the  
08:50AM 9 witness list last night and I'm coming to the conclusion that I  
08:50AM 10 need to say something to the jury in terms of where I think we  
08:50AM 11 are, and I want to go over it with you before I say it. My  
08:50AM 12 thought, No. 1, is the jury is sitting there not having an  
08:50AM 13 appreciation of the fact that the defense case is not going to  
08:50AM 14 last as long as the government case, and they've got to be  
08:50AM 15 sitting thinking we've only heard from one party. I would like  
08:50AM 16 to come up with some information I can give them reiterating  
08:50AM 17 the fact that the defense has no burden of proof and the sole  
08:51AM 18 burden of proof is on the government. And the government has  
08:51AM 19 made a lot of progress, but, in all likelihood, the government  
08:51AM 20 is going to be continuing its case until sometime in May and  
08:51AM 21 you really won't know until the completion of the government's  
08:51AM 22 proof as to what, if any, defense case will be presented. And  
08:51AM 23 in all likelihood, this is going to take us into June, and I  
08:51AM 24 just don't know when into June. But I can assure you that  
08:51AM 25 you're not going to miss any vacations. You know, if everybody

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08:51AM 2 thinks that that is unnecessary or is opposed to that, I'm  
08:51AM 3 willing to hear you out. I just -- I guess the sentence I get  
08:51AM 4 is that the jury is aware of what is going on.

08:52AM 5 MR. TRIPI: I think there are six substantial  
08:52AM 6 witnesses to go. If we budget each of those days, there are 12  
08:52AM 7 days on the high end. And then the remaining witnesses, I  
08:52AM 8 think we can knock off three or four in a day, so...

08:52AM 9 THE COURT: But, I mean, you're not telling me  
08:52AM 10 that you're considering cutting any witnesses?

08:52AM 11 MR. TRIPI: Hartigan.

08:52AM 12 THE COURT: Other than Hartigan. Because I'm  
08:52AM 13 looking.

08:52AM 14 MR. TRIPI: No. I cut as many as I think I can.

08:52AM 15 THE COURT: And I'm looking at your e-mail that  
08:52AM 16 you sent back April 7th. And we haven't completed the first  
08:53AM 17 witness. The first is Emmett Green and then Mr. Mango, and I'm  
08:53AM 18 looking at the list of the 22 witnesses and we haven't knocked  
08:53AM 19 off any of the people on this list.

08:53AM 20 MR. TRIPI: We'll get through two big ones today,  
08:53AM 21 though.

08:53AM 22 MR. GRABLE: And Hartigan will take us below 20.

08:53AM 23 THE COURT: I'm usually a cup half full. I'm not  
08:53AM 24 a pessimistic person, but in terms of jury management, I think  
08:53AM 25 in fairness to them, we need to be saying something.



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08:53AM 2 MR. TRIPI: You want to say it by the end of the  
08:54AM 3 week?

08:54AM 4 THE COURT: I'm thinking by the end of the week,  
08:54AM 5 by the close of Friday. If you think you should handle it  
08:54AM 6 differently, tell me. I'm open to suggestions as to how to  
08:54AM 7 approach this with the jury. I really am. So think about it.

08:54AM 8 MR. CONNORS: And you said, also, your Honor,  
08:54AM 9 we've inquired through Sandra and others about what's going on  
08:54AM 10 and it's on their minds.

08:54AM 11 MR. COVERT: I think the sooner you tell them, the  
08:54AM 12 better. I'd say today.

08:54AM 13 THE COURT: I'm thinking at the end of the week,  
08:54AM 14 we'll have a better assessment as to who we've gotten through,  
08:54AM 15 and my thought is I'm going to kind of draft something up as to  
08:54AM 16 what I say and run it by you before I say it. I want to  
08:54AM 17 address the fact they shouldn't be sitting here thinking we're  
08:54AM 18 going to be sitting here for months, and I want to be careful  
08:54AM 19 how I address that with someone. I'll run it by everyone  
08:54AM 20 before I deal with it. I'm assuming Mr. Haley is here.

08:55AM 21 MR. TRIPI: I'm assuming he is as well.

08:55AM 22 THE COURT: Bring him in.

08:55AM 23 Come on in, Mr. Haley. Thanks, Sandra. Good  
08:55AM 24 morning.

08:55AM 25 THE WITNESS: Good morning.

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08:56AM 2 (The witness retakes the stand.)

08:56AM 3 THE COURT: We'll bring the jury in and we'll get  
08:56AM 4 started.

08:56AM 5 (Whereupon, the jury is escorted into the  
08:56AM 6 courtroom.)

08:57AM 7 THE COURT: Morning everybody. Come on in.

08:57AM 8 JUROR NO. 4: Good morning.

08:57AM 9 THE COURT: So welcome back, ladies and gentlemen.

08:57AM 10 JUROR: Good morning.

08:57AM 11 THE COURT: As you can tell, Mr. Haley is back on  
08:57AM 12 the witness stand and Mr. Grable is on the podium, and whenever  
08:57AM 13 you're ready, you can continue your cross-examination of Mr.  
08:57AM 14 Haley. I remind you, you are still under oath.

08:57AM 15 THE WITNESS: Yes, your Honor.

08:57AM 16 MR. GRABLE: Thank you, your Honor.

08:57AM 17 CONTINUED CROSS-EXAMINATION BY MR. GRABLE:

08:57AM 18 Q. Mr. Haley, where we left off yesterday, we were talking  
08:57AM 19 about the meeting in Tennessee in the latter part of April or  
08:58AM 20 early part of May of 2014, correct?

08:58AM 21 A. Correct.

08:58AM 22 Q. And you were talking to us about some of the events  
08:58AM 23 that occurred at the meeting, correct?

08:58AM 24 A. Yes.

08:58AM 25 Q. And I was showing you a document that was in evidence,

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08:58AM 2 153.1, and it's the top right corner numbered page 292, and on  
08:58AM 3 the bottom, page 42 of 103. We had started to look at this at  
08:58AM 4 the close of the day yesterday, correct, Mr. Haley?

08:58AM 5 A. Yes.

08:58AM 6 Q. And this was a message that you saw that Tim Enix had  
08:58AM 7 posted on the 6th of May at 3:25 in the afternoon, correct?

08:59AM 8 A. Yes.

08:59AM 9 Q. And you read that post yourself and then you put a post  
08:59AM 10 on Facebook shortly thereafter, correct?

08:59AM 11 A. Yes.

08:59AM 12 Q. And that is Government's Exhibit 158.3. And you recall  
08:59AM 13 giving us some testimony about 158.3 during your direct  
08:59AM 14 examination, correct?

08:59AM 15 A. Yes.

08:59AM 16 Q. This is a message that you posted a little less than an  
08:59AM 17 hour after Mr. Enix had posted his message, shorter message,  
08:59AM 18 about the Tennessee meeting, correct?

08:59AM 19 A. Yes.

08:59AM 20 Q. And this was you commenting on Mr. Enix's post,  
08:59AM 21 correct?

08:59AM 22 A. I'm not sure it was that post that we just read. It  
08:59AM 23 might have been a different post, but I was commenting on a  
08:59AM 24 post from Mr. Enix, yes.

08:59AM 25 Q. And you're commenting on a post about the events that

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09:00AM 2 occurred in Tennessee?

09:00AM 3 A. Yes.

09:00AM 4 Q. And you start the message by addressing the fact that  
09:00AM 5 you're responding to something Mr. Enix had posted when you say  
09:00AM 6 "with all respect to my brother Blaze," right?

09:00AM 7 A. Yes.

09:00AM 8 Q. And then you purport to describe in 158.3 events that  
09:00AM 9 you were relaying to the Kingsmen Nation about your  
09:00AM 10 observations from the trip to Tennessee, at least some of those  
09:00AM 11 observations, correct?

09:00AM 12 A. Yes.

09:00AM 13 Q. And you were putting these out to the Kingsmen Nation  
09:00AM 14 to share with them your view of what transpired in Tennessee  
09:00AM 15 and the events that unfolded there, correct?

09:00AM 16 A. Yes.

09:00AM 17 Q. And one of the things you said in responding to  
09:00AM 18 something Mr. Enix posted was you said that is why when Blaze  
09:00AM 19 told them all in the meeting to, I think you put it on your  
09:01AM 20 direct testimony, "F off, we're here to stay, they shit  
09:01AM 21 themselves." You wrote that in your message, correct?

09:01AM 22 A. Yes.

09:01AM 23 Q. In point of fact, you weren't in the meeting, were you?

09:01AM 24 A. That's correct.

09:01AM 25 Q. So you were essentially embellishing what you believed

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09:01AM 2 happened in the meeting to everyone, though you weren't there?

09:01AM 3 A. I was repeating what Blaze had told me happened in the  
09:01AM 4 meeting.

09:01AM 5 Q. So it's your testimony that when Blaze posted his  
09:01AM 6 description on page 42 of 153.1, you see, of course, he doesn't  
09:01AM 7 say anything about all this drama that you describe in 158.3.  
09:01AM 8 You see the difference between your message and his, correct?

09:01AM 9 A. Certainly.

09:01AM 10 Q. And your message is far more dramatic and contains far  
09:01AM 11 more dramatic details, correct?

09:01AM 12 A. Yes.

09:01AM 13 Q. Including details about things that -- supposed things  
09:02AM 14 that happened in the meeting itself?

09:02AM 15 A. The one comment, yes.

09:02AM 16 Q. And we now understand it's a meeting you weren't in  
09:02AM 17 attendance at, correct?

09:02AM 18 A. That's correct.

09:02AM 19 Q. And the other interesting thing about -- let's look one  
09:02AM 20 more moment at 158.3. You're describing in 158.3 conduct that  
09:02AM 21 you claim you engaged in outside that meeting, correct?

09:02AM 22 A. Correct, when we first arrived.

09:02AM 23 Q. And you're talking about the fact that there was this  
09:02AM 24 dramatic moment involving guns and harsh language and lots of  
09:02AM 25 people dropping the F word, correct?

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09:02AM 2

A. Yes.

09:02AM 3

Q. The reality is that that is all embellished, correct?

09:02AM 4

A. No.

09:02AM 5

Q. Well, the way it really went down is you guys rode up

09:02AM 6

to the meeting. There was a short discussion between Mr. Pirk,

09:02AM 7

Mr. Enix, on the one hand, and Outlaw leadership on the other

09:03AM 8

hand. And there was an amicable understanding without harsh

09:03AM 9

language that it would be okay to bring guns into the meeting,

09:03AM 10

correct?

09:03AM 11

A. The language is common amongst us, whether you perceive

09:03AM 12

it as harsh or not. It was what was said. I may have

09:03AM 13

embellished that I said F and he didn't, but it's absolutely

09:03AM 14

correct in the entirety as to the way it was said and what went

09:03AM 15

down.

09:03AM 16

Q. You didn't say anything when you rode up because you

09:03AM 17

weren't part of the group that was going to meet with the

09:03AM 18

Outlaws, correct?

09:03AM 19

A. That is absolutely incorrect.

09:03AM 20

Q. And 158.3, you're discussing what your place in what

09:03AM 21

happened in Tennessee was, correct?

09:03AM 22

A. No, I'm reporting what happened in Tennessee.

09:03AM 23

Q. We know from people that were actually in attendance in

09:03AM 24

the meeting and you heard from the people yourself what

09:03AM 25

happened in the meeting yourself was a peaceful resolution of

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09:03AM 2 the bottom rocker in Tennessee, correct?

09:04AM 3 A. That's correct.

09:04AM 4 Q. And there was no bloodshed, correct?

09:04AM 5 A. No.

09:04AM 6 Q. And no fists thrown?

09:04AM 7 A. No.

09:04AM 8 Q. And no guns?

09:04AM 9 A. No.

09:04AM 10 Q. But certainly a successful negotiation?

09:04AM 11 A. Yes.

09:04AM 12 Q. And a negotiation that was conducted successfully by  
09:04AM 13 Mr. Enix, correct?

09:04AM 14 A. I wasn't in the meeting, so I'm not sure who conducted  
09:04AM 15 it successfully, but all of the guys participated.

09:04AM 16 Q. When you say all of the guys, how many guys went in?

09:04AM 17 A. Again, I believe it was four or five.

09:04AM 18 Q. And one of them was Mr. Enix?

09:04AM 19 A. Yes.

09:04AM 20 Q. And then when everybody came out of the meeting, people  
09:04AM 21 were congratulating Mr. Enix, correct?

09:04AM 22 A. Not when they came out of the meeting. When they came  
09:04AM 23 out of the meeting, it was stoic, and Pirk said, "Don't talk  
09:04AM 24 about it. Don't ask any questions."

09:04AM 25 Q. And you -- then you guys went back to the hotel or

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09:04AM 2 place to eat?

09:04AM 3 A. We went back to the clubhouse in Tennessee.

09:04AM 4 Q. And then people were congratulating Mr. Enix for what  
09:04AM 5 otherwise could have been a tense meeting?

09:05AM 6 A. Congratulating Pirk and Enix for what could have been a  
09:05AM 7 tense situation in the meeting.

09:05AM 8 Q. But not you?

09:05AM 9 A. I wasn't in the meeting.

09:05AM 10 Q. Right. At 158; 3:16:23 UTC, we saw your long birthday  
09:05AM 11 messages where -- now, this is a couple of hours after your  
09:05AM 12 description of what happened in Tennessee, where you posted a  
09:05AM 13 much longer message from Exhibit 158.1 at page 11 and beyond.  
09:05AM 14 This is the message a couple hours later, where you are giving  
09:06AM 15 more details of what you claim happened in Tennessee, correct?

09:06AM 16 A. Yes.

09:06AM 17 Q. And were you, with this message, were you trying to  
09:06AM 18 again point out the importance of your role in the events that  
09:06AM 19 unfolded in Tennessee?

09:06AM 20 A. No.

09:06AM 21 Q. Now, you talked during your direct testimony about a  
09:06AM 22 meeting, or meeting is probably not the correct word, about a  
09:06AM 23 trip that you took up to New York that included a stop in  
09:06AM 24 Arcade, correct?

09:06AM 25 A. Yes.



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09:06AM 2 Q. And that was for, among other things, the opening of  
09:06AM 3 the Arcade clubhouse that was next to the pizzeria, correct?

09:06AM 4 A. Yes.

09:06AM 5 Q. And I heard your testimony correctly, I believe, that  
09:07AM 6 Mr. Enix was not in attendance for that trip?

09:07AM 7 A. I don't recall Mr. Enix coming there.

09:07AM 8 Q. And you also are clear in your recollection that there  
09:07AM 9 was not an all hands summit meeting, correct?

09:07AM 10 A. Correct.

09:07AM 11 Q. And I want to go back to some of your testimony about  
09:07AM 12 the events involving Hernando and the lead-up to those events  
09:07AM 13 in the early part of 2014, okay?

09:07AM 14 A. Okay.

09:07AM 15 Q. In January, the first week and a half of January of  
09:07AM 16 2014 was when Glen Buzzy, Captain America, informed the club  
09:07AM 17 that he would be leaving the club, correct?

09:07AM 18 A. Yes, I believe that was the time frame.

09:07AM 19 Q. And I want to show you, I've handed you a document  
09:08AM 20 we've marked TE 5141. And you recognize that document,  
09:08AM 21 correct?

09:08AM 22 A. Yes.

09:08AM 23 Q. That is a Facebook post that you read on or about the  
09:08AM 24 10th of January, 2014, correct?

09:08AM 25 A. Correct.

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09:08AM 2 Q. And that was a post that was posted to the Kingsmen  
09:08AM 3 Motorcycle Club group Facebook page, correct?

09:08AM 4 A. Correct.

09:08AM 5 Q. And you read it in the course of engaging in your  
09:08AM 6 review from time to time of various pieces of information that  
09:08AM 7 were posted to that group Facebook page, correct?

09:08AM 8 A. I'm not clear on the question.

09:08AM 9 Q. Let me try it again. You read that from time to time.  
09:09AM 10 You would go on the Kingsman Motorcycle Club Facebook page and  
09:09AM 11 read things there?

09:09AM 12 A. Yes.

09:09AM 13 Q. And this was a pair of posts that you read on or about  
09:09AM 14 the 10th of January of 2014?

09:09AM 15 A. Yes, that's correct.

09:09AM 16 MR. GRABLE: I offer SE 5141 into evidence.

09:09AM 17 THE COURT: Any objection?

09:09AM 18 MR. TRIPI: Objection to hearsay.

09:09AM 19 THE COURT: Can you hand me a copy of it?

09:09AM 20 Mr. Tripi, you want to hear?

09:09AM 21 (Whereupon, a sidebar discussion was held on the  
09:10AM 22 record.)

09:10AM 23 MR. GRABLE: These are the things that I thought  
09:10AM 24 were the foundation from the business records that came from  
09:10AM 25 the page, that they were business records. If that is not the

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09:10AM 2 case, then I would offer it with the limiting instruction not  
09:10AM 3 for the truth of the matter, but it was information conveyed  
09:10AM 4 among the group that is offered to impeach this witness'  
09:10AM 5 account.

09:10AM 6 THE COURT: Refresh my recollection, the Facebook  
09:10AM 7 posts were stipulated in.

09:10AM 8 MR. GRABLE: As to authenticity.

09:10AM 9 MR. TRIPI: Mr. Grable tried to get it in earlier  
09:10AM 10 as a co-conspirator statement. This is the same message and I  
09:10AM 11 don't fault him for trying to get it in.

09:10AM 12 MR. GRABLE: I never put it in as a co-conspirator  
09:10AM 13 statement.

09:10AM 14 THE COURT: Did you try to offer it?

09:10AM 15 MR. GRABLE: I showed it to a witness. I don't  
09:10AM 16 know if I offered it or not. I very well may have.

09:11AM 17 MR. TRIPI: The argument was hearsay,  
09:11AM 18 self-serving, doesn't come in as a co-conspirator statement.

09:11AM 19 THE COURT: Were the Facebook posts admitted as  
09:11AM 20 business records?

09:11AM 21 MR. TRIPI: No. I had to link everyone to them.

09:11AM 22 THE COURT: I don't think they were business  
09:11AM 23 records. They didn't come in under 801(B)(6).

09:11AM 24 MR. GRABLE: I heard foundational questions kept  
09:11AM 25 in the ordinary course. That is my recollection.

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09:11AM 2 THE COURT: There hasn't been the foundation made  
09:11AM 3 under 803(6). There has been no testimony that it was made at  
09:11AM 4 or near the time that it could be laid, but it was maintained  
09:11AM 5 in the regular course of business or it was the ordinary course  
09:11AM 6 of business to create the records. There has been no testimony  
09:11AM 7 about that. All of the Facebook posts have come in under  
09:11AM 8 801(d)(2)(E) is my recollection.

09:12AM 9 MR. TRIPI: And the limited ones that haven't, you  
09:12AM 10 gave a limiting instruction under 801(d)(2)(A).

09:12AM 11 THE COURT: Right. So I don't think 803(6), the  
09:12AM 12 foundation hasn't been laid to put these in.

09:12AM 13 MR. GRABLE: Can I look and see their assertion?  
09:12AM 14 I'll either offer it under 803(3) or not for truth of the  
09:12AM 15 matter.

09:12AM 16 THE COURT: Foundation hasn't been laid under  
09:12AM 17 803(3).

09:12AM 18 MR. GRABLE: I think the first post is  
09:12AM 19 self-evident.

09:12AM 20 THE COURT: Neither one of these are his  
09:12AM 21 statements?

09:12AM 22 MR. GRABLE: Correct.

09:12AM 23 THE COURT: I don't know how the testimony so far  
09:12AM 24 from this witness would lay the foundation.

09:12AM 25 MR. GRABLE: I don't think the testimony does, but

1 D. HALEY - CX BY MR. GRABLE

09:12AM 2 as to the first message, that provides foundational support  
09:13AM 3 under 803(3).

09:13AM 4 THE COURT: Seems to me this raises some of the  
09:13AM 5 same issues that you've raised under 803(3), that it is  
09:13AM 6 reciting historical information. So I think maybe some of the  
09:13AM 7 statements in there could come in. I mean, I think the  
09:13AM 8 statement "I'm going to let you know I've officially left the  
09:13AM 9 Kingsmen Nation as of today" could come in under 803(3), but  
09:13AM 10 the reasons he is leaving and the sentiments that he has don't  
09:13AM 11 come in.

09:13AM 12 MR. GRABLE: I advance a 106 argument there have  
09:13AM 13 been statements, and I can't recall if there are documents or  
09:14AM 14 Facebook postings, regarding the Hernando issue.

09:14AM 15 MR. TRIPI: There are Facebook posts with the  
09:14AM 16 Hernando.

09:14AM 17 MR. GRABLE: Certainly, out-of-court statements  
09:14AM 18 that have been introduced about the reasons for Hernando, patch  
09:14AM 19 meetings, et cetera, and I think this fairly completes the  
09:14AM 20 record based on the cases we cited to your Honor in the  
09:14AM 21 pretrial briefing.

09:14AM 22 THE COURT: You have to show me a Facebook post in  
09:14AM 23 this line. In other words, under 106, you have to show me  
09:14AM 24 something. You would have to cite to other Facebook posts that  
09:14AM 25 have already been admitted that include the discussion of

1 D. HALEY - CX BY MR. GRABLE

09:14AM 2 Captain America leaving and this issue. Mr. Tripi is saying  
09:14AM 3 there have not been any. So your other reason for trying to  
09:14AM 4 get this in as Mr. Enix's statement is not 803(3).

09:14AM 5 MR. GRABLE: So if none of those arguments have  
09:14AM 6 persuaded the Court, I'll offer it not for truth of the matter  
09:15AM 7 but the impact it should have had and would have had on the  
09:15AM 8 people that were meeting and discussing supposed anger over  
09:15AM 9 Captain America leaving the club.

09:15AM 10 THE COURT: You already elicited testimony, I  
09:15AM 11 thought, from this witness that Captain America left the right  
09:15AM 12 way.

09:15AM 13 MR. TRIPI: At first, and some time passed and  
09:15AM 14 then they got embarrassed.

09:15AM 15 THE COURT: So you're trying to offer it for  
09:15AM 16 truth. But I don't see your stated reason for offering it as  
09:15AM 17 non-hearsay is persuasive given the testimony that has been  
09:15AM 18 elicited in this case. This TE 5141 doesn't advance the law in  
09:15AM 19 any case.

09:15AM 20 MR. GRABLE: But the government has made a case  
09:15AM 21 about Mr. Pirk's and Enix's feelings Captain America left.  
09:16AM 22 This witness said Mr. Pirk was angry over Buzzy leaving and the  
09:16AM 23 circumstances of him leaving. This is to show the impact this  
09:16AM 24 would have had on their thinking.

09:16AM 25 THE COURT: You're offering it to show what Mr.

1 D. HALEY - CX BY MR. GRABLE

09:16AM 2 Enix's thoughts of what Captain America thought would grab if  
09:16AM 3 we cover up the bottom message. I'll try and get it in if Mr.  
09:16AM 4 Enix testifies, but the top message is the account it had on  
09:16AM 5 Mr. Pirk and Mr. Enix.

09:16AM 6 MR. TRIPI: It's temporally inaccurate. It's  
09:16AM 7 clearly at a time before the issue arose. There is no  
09:16AM 8 testimony in the record.

09:16AM 9 THE COURT: What about the argument that the  
09:16AM 10 Captain America statement comes in for the fact just to show  
09:16AM 11 what Captain America was publishing to the Kingsmen Nation on  
09:17AM 12 the Facebook page? No, it's not coming in to show that Captain  
09:17AM 13 America felt that way.

09:17AM 14 MR. TRIPI: I guess I disagree. They're trying to  
09:17AM 15 show there is a good relationship and that message is, I'm  
09:17AM 16 leaving on good terms and I have a good relationship with the  
09:17AM 17 Kingsmen. So it's, in my view, coming in offered for truth.

09:17AM 18 THE COURT: But I'll give a limiting instruction.

09:17AM 19 MR. TRIPI: But he is not a party opponent. It's  
09:17AM 20 still a hearsay issue, because Glen Buzzy is not a party  
09:17AM 21 opponent.

09:17AM 22 THE COURT: It's not hearsay if it's not offered  
09:17AM 23 for truth. It's coming as offered to show that Captain America  
09:17AM 24 published to the other Kingsmen at the time he left.

09:17AM 25 MR. TRIPI: But they are going to want to argue.

1 D. HALEY - CX BY MR. GRABLE

09:18AM 2 THE COURT: I won't let them argue. There is no  
09:18AM 3 proof in the record.

09:18AM 4 MR. GRABLE: Other than this witness'  
09:18AM 5 understanding and other witnesses' understanding.

09:18AM 6 MR. TRIPI: I think the whole point of this is I'm  
09:18AM 7 not leaving at this time for hard feelings. I view that for  
09:18AM 8 its truth. I believe that is the core crux of the message and  
09:18AM 9 coming -- introduced for truth.

09:18AM 10 MR. GRABLE: And it's not coming admitted for  
09:18AM 11 truth. It's coming admitted for impact it had on the Kingsmen  
09:18AM 12 who read it, Mr. Pirk and Mr. Enix and this witness. This  
09:18AM 13 witnesses claims we were all mad.

09:18AM 14 THE COURT: I'll let in the message, "I'm not  
09:18AM 15 leaving with hard feelings," redacted. I think it's difficult  
09:18AM 16 to separate that out. I'll let that message in. I'll give a  
09:18AM 17 limiting instruction.

09:18AM 18 MR. GRABLE: What part do you want redacted?

09:19AM 19 THE COURT: Is this the original exhibit?

09:19AM 20 MR. GRABLE: No. If you write lightly, I'll take  
09:19AM 21 it out and we'll prepare everything if I can use whiteout.

09:19AM 22 MR. TRIPI: The underlined portion is out.

09:19AM 23 THE COURT: The underlined portion is what's out  
09:19AM 24 and the bottom message is not coming in.

09:19AM 25 (Whereupon, the proceeding continued.)



1 D. HALEY - CX BY MR. GRABLE

09:19AM 2 THE COURT: Ladies and gentlemen, I sustained the  
09:19AM 3 objection in part and overruled the objection in part, which  
09:19AM 4 means I'm allowing in a portion of the message which is a  
09:19AM 5 purported posting by Captain America to the Kingsmen Facebook  
09:20AM 6 page. But I want to give you a limiting instruction. This is  
09:20AM 7 not coming in for truth of what Captain America allegedly said  
09:20AM 8 in there. It's only coming in for purpose of demonstrating  
09:20AM 9 what Captain America published to the rest of the Kingsmen  
09:20AM 10 Nation. So you can understand what he was purportedly saying  
09:20AM 11 to the rest of the Kingsmen.

09:20AM 12 So the record is clear, I think we should identify  
09:20AM 13 it, Mr. Grable, because it's an altered TE 5141, maybe TE  
09:20AM 14 5141-A.

09:20AM 15 MR. GRABLE: I agree, TE 5141-A, which I'll put on  
09:21AM 16 the ELMO.

09:21AM 17 THE COURT: TE 5141-A has been admitted into  
09:21AM 18 evidence.

09:21AM 19 **(Whereupon, Exhibit TE 5141-A was received in**  
09:21AM 20 **evidence.)**

09:21AM 21 MR. GRABLE: Thank you.

09:21AM 22 Q. Mr. Haley, this is the post we've been talking about  
09:21AM 23 over the last few minutes, correct?

09:21AM 24 A. Yes.

09:21AM 25 Q. Use the one on the screen, if you would, not the one

1 D. HALEY - CX BY MR. GRABLE

09:21AM 2 before you. Thank you. And this was, in fact, a post that you  
09:21AM 3 reviewed from Glen Buzzy of the Kingsman Motorcycle Club?

09:21AM 4 A. Yes.

09:21AM 5 Q. And you see on the post from January 10th, 2014, he is  
09:21AM 6 moving on to something that has been calling him for a long  
09:21AM 7 time?

09:21AM 8 A. Yes.

09:21AM 9 Q. And you see at the bottom of the post, "I'm moving on"?

09:22AM 10 A. Yes.

09:22AM 11 Q. And you see he is moving on to the one-percent club?

09:22AM 12 A. Not at this time.

09:22AM 13 Q. But eventually within a few weeks or so of this  
09:22AM 14 message, you understood?

09:22AM 15 A. Yes.

09:22AM 16 Q. And at this time, Buzzy, Captain America, this is  
09:22AM 17 around the time when he turned in his patches to the Kingsmen,  
09:22AM 18 correct?

09:22AM 19 A. Yes.

09:22AM 20 Q. And at the time when he turned in his patches and  
09:22AM 21 communicated with the club in the manner that is reflected in  
09:22AM 22 TE 5141-A, you were in the presence of Mr. Pirk and Mr. Enix  
09:22AM 23 shortly after this message was posted, correct?

09:22AM 24 A. Yes.

09:22AM 25 Q. And you understood, I'm not asking you to tell us what

1

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09:23AM

2

they said, but certainly from their demeanor when they were

09:23AM

3

aware of this posting, their demeanor was they were okay with

09:23AM

4

Buzzy leaving because he had done it the correct way?

09:23AM

5

A. Yes.

09:23AM

6

Q. And, in fact, there was no eruption of anger at this

09:23AM

7

time or expressed either with demeanor or words of any anger.

09:23AM

8

Their reaction was, okay, Buzzy is moving on?

09:23AM

9

A. It wasn't that nonchalant. There certainly wasn't a

09:23AM

10

lot of anger. They were disappointed and had some concerns,

09:23AM

11

but they were not angry.

09:23AM

12

Q. And that was reflective of an absence of anger. Mr.

09:23AM

13

Enix communicated with the Kingsmen to share with them that

09:23AM

14

Buzzy was leaving under circumstances where he should be

09:23AM

15

treated as somebody who is out of the club but not somebody who

09:23AM

16

was "out bad"?

09:23AM

17

A. No. Mr. Enix didn't have that authority. That was

09:23AM

18

communicated by Pirk. Only the President can put you "out bad"

09:24AM

19

or good, and Pirk had put him out good.

09:24AM

20

Q. And so your recollection is that at that time, the

09:24AM

21

communication to the Kingsmen Nation from Mr. Pirk was that

09:24AM

22

Buzzy was out but out good?

09:24AM

23

A. Yes.

09:24AM

24

Q. Okay. And a short time later, testimony arose that

09:24AM

25

there were others from the Hernando chapter that were leaving

1 D. HALEY - CX BY MR. GRABLE

09:24AM 2 the club?

09:24AM 3 A. I think the sequence was first Buzzy left and actually  
09:24AM 4 joined the Pagans and then we were notified that others were  
09:24AM 5 leaving and following.

09:24AM 6 Q. That's right. And then you had some discussions that  
09:24AM 7 you told us about on direct examination with Mr. Pirk about  
09:24AM 8 your rights as a property owner of the Hernando clubhouse,  
09:24AM 9 correct?

09:24AM 10 A. I was called to a meeting.

09:25AM 11 Q. You were on the deed still at that point?

09:25AM 12 A. Yes.

09:25AM 13 Q. In Hernando, correct?

09:25AM 14 A. Yes.

09:25AM 15 Q. And you told us that you had some reservations because  
09:25AM 16 of the amounts that you had contributed to the property at  
09:25AM 17 Hernando versus what Buzzy contributed, but the fact of the  
09:25AM 18 matter, on the deed and legal paperwork, you were a co-owner of  
09:25AM 19 the property, correct?

09:25AM 20 A. Yes.

09:25AM 21 Q. And Mr. Pirk, the instruction he gave you was assert  
09:25AM 22 your legal rights, correct?

09:25AM 23 A. Yes.

09:25AM 24 Q. He said you're on the deed. Go in and let's get our  
09:25AM 25 property back, correct?

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09:25AM 2 A. Not our property patches, if that is what you're  
09:25AM 3 talking about. The physical property, the clubhouse.

09:25AM 4 Q. Right. The house itself, right?

09:25AM 5 A. Yes.

09:25AM 6 Q. And you understood that to be a direction from Mr. Pirk  
09:25AM 7 that you should proceed in connection with this Hernando issue  
09:25AM 8 using legal methods, correct?

09:25AM 9 A. That is exactly what he told me.

09:25AM 10 Q. He wanted you to use the county clerk's office and the  
09:26AM 11 recorder of deeds to try and use legal methods to get back the  
09:26AM 12 Hernando property that had been the Kingsmen clubhouse,  
09:26AM 13 correct?

09:26AM 14 A. Correct.

09:26AM 15 Q. And this notion of using legal methods in the county  
09:26AM 16 clerk's office to challenge the deed and who owned the  
09:26AM 17 property, that was a similar command from Mr. Pirk to the one  
09:26AM 18 that he made to you in the early part of August 2014, when he  
09:26AM 19 talked to you about having Special Ed and Filly arrested for  
09:26AM 20 drug dealing, correct?

09:26AM 21 A. Yes.

09:26AM 22 Q. Was it a demonstration of using the legal system?

09:26AM 23 A. Correct.

09:27AM 24 Q. Just as with the Hernando issue, where the direction  
09:27AM 25 was from Mr. Pirk, go in and assert our legal rights? He was

1 D. HALEY - CX BY MR. GRABLE

09:27AM 2 talking to you in the early part of August of 2014 about using  
09:27AM 3 the legal process, meaning arrest -- to have Caruso and Special  
09:27AM 4 Ed arrested for their drug activity, correct?

09:27AM 5 A. Correct.

09:27AM 6 Q. And you see the similarities between the two positions  
09:27AM 7 that Mr. Pirk took, first in connection with Hernando and then  
09:27AM 8 later on in connection with Special Ed and Filly, correct?

09:27AM 9 A. Meaning letting the legal system do our dirty work.  
09:27AM 10 Yes, I see that.

09:27AM 11 Q. Dirty work or letting the legal system function the way  
09:27AM 12 the legal system functions, correct?

09:27AM 13 A. Yes.

09:27AM 14 Q. And now I want to talk to you about your description of  
09:27AM 15 the South Buffalo showdown or meeting where Filly Caruso was  
09:27AM 16 armed with that Kel-Tech and you came into the meeting once you  
09:28AM 17 got some sort of a phone call, okay?

09:28AM 18 A. Yes.

09:28AM 19 Q. Now, by the time you arrived at South Buffalo,  
09:28AM 20 everybody who had been involved in whatever discussion was  
09:28AM 21 going on was upstairs in the meeting room, correct?

09:28AM 22 A. Yes.

09:28AM 23 Q. You don't know what happened before you got there,  
09:28AM 24 correct?

09:28AM 25 A. Correct.

1 D. HALEY - CX BY MR. GRABLE

09:28AM 2 Q. And your testimony is that you went upstairs and helped  
09:28AM 3 diffuse the situation by your presence, correct?

09:28AM 4 A. Yes.

09:28AM 5 Q. Now, the fact of the matter is that by the time you got  
09:28AM 6 there, the hot tempers at South Buffalo had been diffused prior  
09:28AM 7 to your arrival, correct?

09:28AM 8 A. Absolutely not.

09:28AM 9 Q. Your testimony is that Mr. Enix had not cooled  
09:28AM 10 everybody off before your arrival?

09:28AM 11 A. My testimony is that he had been up there for over an  
09:28AM 12 hour and was unable to peace make his way out of there and  
09:29AM 13 still trapped in the room, and Filly was still bouncing off the  
09:29AM 14 walls and his son used the exact words to me that he was  
09:29AM 15 trapped upstairs. That is my testimony, yes. He was unable to  
09:29AM 16 extricate from the room.

09:29AM 17 Q. That is what you claim at South Buffalo, correct?

09:29AM 18 A. Yes.

09:29AM 19 Q. And so if there has been testimony in this case that  
09:29AM 20 Mr. Enix, prior to your arrival, had diffused that situation,  
09:29AM 21 you would disagree with that testimony?

09:29AM 22 MR. TRIPI: Objection, lack of personal knowledge.

09:29AM 23 THE COURT: Sustained.

09:29AM 24 Q. In any event, you do agree that when you saw Mr. Enix  
09:29AM 25 at South Buffalo that day, he didn't have a gun on, correct?

1 D. HALEY - CX BY MR. GRABLE

09:29AM 2 A. Yes.

09:29AM 3 Q. And you also agree that after that meeting, he left and  
09:29AM 4 told you that he was going back to Florida?

09:29AM 5 A. Yes.

09:29AM 6 Q. Now, in the time between when you were upstairs with  
09:29AM 7 the folks in the meeting and the time you left, as I understand  
09:29AM 8 it, when you left, you went back to Medina?

09:30AM 9 A. I believe so.

09:30AM 10 Q. To the Hartigan family reunion?

09:30AM 11 A. I believe so. I may have gone back to the hotel, but  
09:30AM 12 my recollection is we didn't stay at the Buffalo clubhouse. We  
09:30AM 13 left shortly after Pirk and Enix left.

09:30AM 14 Q. And when you say in the testimony you believe so, and  
09:30AM 15 you said it a few times and you believe so, is that you  
09:30AM 16 advising us that you're not 100 percent certain about what  
09:30AM 17 you're saying?

09:30AM 18 A. Yes.

09:30AM 19 Q. And so when you've used that phrase with us during your  
09:30AM 20 testimony, "I believe" or "I believe so," have you been  
09:30AM 21 conveying to us that is a situation where you're not completely  
09:30AM 22 positive of what it is that you're not completely positive of  
09:30AM 23 what you're describing?

09:30AM 24 A. I'm conveying, to the best of my recollection, over  
09:30AM 25 multiple meetings over several years over several times.



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09:30AM 2 Q. Exactly. Getting back to the time when you were  
09:30AM 3 upstairs at South Buffalo and you and the attendees from  
09:31AM 4 upstairs went downstairs, what happened when everybody went  
09:31AM 5 downstairs? The party at South Buffalo resumed, correct?

09:31AM 6 A. Yes.

09:31AM 7 Q. And when I say the party, there were grills at South  
09:31AM 8 Buffalo, correct?

09:31AM 9 A. I don't recall grills. We were inside the building.

09:31AM 10 Q. But to get from the upstairs back to your car to go to  
09:31AM 11 Medina, you walked through a courtyard at South Buffalo,  
09:31AM 12 correct?

09:31AM 13 A. Yes.

09:31AM 14 Q. And you saw that there were grills and they were  
09:31AM 15 cooking hamburgers and hot dogs?

09:31AM 16 A. Not that I noticed.

09:31AM 17 Q. And was there a bar set up?

09:31AM 18 A. Inside the clubhouse, yes.

09:31AM 19 Q. And the reality is you left to go back to Medina before  
09:31AM 20 Mr. Pirk and Mr. Enix left South Buffalo. Let me try and be  
09:31AM 21 more precise. They told you they were going to leave, but you  
09:31AM 22 actually left before they did, correct?

09:31AM 23 A. My recollection is they walked out first because we  
09:31AM 24 walked them to the car. Somebody walked them to the car and  
09:31AM 25 then I left.

1 D. HALEY - CX BY MR. GRABLE

09:31AM 2 Q. And so it's your testimony that after the meeting  
09:32AM 3 upstairs was concluded that -- well, let me ask another  
09:32AM 4 question. When did Filly leave, if you saw him leave?

09:32AM 5 A. Don't know.

09:32AM 6 Q. Would you disagree with the notion that as soon as that  
09:32AM 7 meeting disbanded downstairs and everybody came downstairs,  
09:32AM 8 that Filly left immediately?

09:32AM 9 A. I can't agree or disagree. I have no knowledge of when  
09:32AM 10 Filly left.

09:32AM 11 Q. After Filly left, didn't the remaining attendees,  
09:32AM 12 including the folks that had been upstairs in the discussion,  
09:32AM 13 they went downstairs and had a meal together, correct?

09:32AM 14 MR. TRIPI: Objection, lack of personal knowledge.  
09:32AM 15 He testified he didn't know when Filly left.

09:32AM 16 THE COURT: Sustained.

09:32AM 17 Q. You saw the attendees, including Mr. Enix and Mr. Pirk,  
09:32AM 18 come downstairs and basically have agreeable,  
09:32AM 19 non-confrontational communications with the persons who had  
09:32AM 20 been upstairs, correct?

09:32AM 21 A. Yes.

09:32AM 22 Q. And so that situation had been fully diffused by the  
09:33AM 23 time you left to go to Medina?

09:33AM 24 A. Diffused and not resolved.

09:33AM 25 Q. I'm going to get to the testimony of what you claim

1 D. HALEY - CX BY MR. GRABLE

09:33AM 2 happened the days that followed. You are getting ahead.

09:33AM 3 Staying on that day, August 3rd of 2014, you don't know what  
09:33AM 4 happened after you left?

09:33AM 5 A. Yes.

09:33AM 6 Q. But you do know that the people that came downstairs  
09:33AM 7 from upstairs were cooled off and seemed to be getting along?

09:33AM 8 A. Yes.

09:33AM 9 Q. That was your testimony, is that is because of what you  
09:33AM 10 did?

09:33AM 11 A. My testimony is that I promised I would look into what  
09:33AM 12 the grievances were.

09:33AM 13 Q. You would take the credit for what happened at South  
09:33AM 14 Buffalo?

09:33AM 15 A. Credit is probably the wrong word. I was the mediator  
09:33AM 16 when I walked into the room and everybody was upset and hot.

09:34AM 17 Q. So let's go where you went a moment ago and talk about  
09:34AM 18 your testimony on direct examination about the events that  
09:34AM 19 transpired after the 3rd of August at South Buffalo, okay?

09:34AM 20 A. Okay.

09:34AM 21 Q. You have told us that the very next day, the 4th of  
09:34AM 22 August, you had a telephone call with Special Ed, correct?

09:34AM 23 A. Correct.

09:34AM 24 Q. And there are, in fact, phone records to back up the  
09:34AM 25 notion that you had some communication with Special Ed at 9

1 D. HALEY - CX BY MR. GRABLE

09:34AM 2 that morning, correct?

09:34AM 3 A. Yes.

09:34AM 4 Q. And you called him, right?

09:34AM 5 A. I know we spoke. If the records say that I called him,  
09:34AM 6 then I'm agreeing to that.

09:34AM 7 Q. And that was the phone call where he told you I'm  
09:34AM 8 leaving the Kingsmen, right?

09:34AM 9 A. We might have had another conversation later in the day  
09:34AM 10 when he said he was leaving. That was the phone call when we  
09:35AM 11 discussed what his immediate grievances were and what the  
09:35AM 12 problem was upstairs.

09:35AM 13 Q. Whether it was the morning call on the 4th of August or  
09:35AM 14 the early afternoon call on the 4th of August, you're not sure  
09:35AM 15 which call it was, but you do have a recollection that is the  
09:35AM 16 day after South Buffalo when Special Ed told you he was going  
09:35AM 17 to leave the Kingsmen?

09:35AM 18 A. I don't have the recollection it was exactly that day.  
09:35AM 19 I know it was a day or two within the meeting.

09:35AM 20 Q. Would it be before you returned to Florida?

09:35AM 21 A. Yes. I believe it was, yes.

09:35AM 22 Q. And then you tell us that you went back down to Florida  
09:35AM 23 following that conversation with Special Ed, correct?

09:35AM 24 A. Yes.

09:35AM 25 Q. And that is when you testify about your discussion back

1 D. HALEY - CX BY MR. GRABLE

09:35AM 2 in Florida about whacking Special Ed and Caruso?

09:35AM 3 A. That was the first statement David made to me.

09:36AM 4 Q. That was after Special Ed said he was leaving the club?

09:36AM 5 A. Told me he was leaving. He hadn't successfully left  
09:36AM 6 yet.

09:36AM 7 Q. And you had communication he wanted to leave the club?

09:36AM 8 A. He wanted to quit and turn in the patches.

09:36AM 9 Q. And I assume you conveyed that to Mr. Pirk in response  
09:36AM 10 to what he said?

09:36AM 11 A. Why would we do that? He is leaving anyway.

09:36AM 12 Q. You didn't bother to share the information?

09:36AM 13 A. No, that wasn't the topic of the conversation.

09:36AM 14 Q. The reality is the topic of the conversation was that  
09:36AM 15 Mr. Pirk, in that discussion, talked about having Filly and  
09:36AM 16 Special Ed arrested because of the drug activity?

09:36AM 17 A. It was one of the reasons that Pirk and Enix, that they  
09:36AM 18 wanted to explain they wanted to get rid of Filly and Special  
09:36AM 19 Ed without addressing the grievances in the meeting.

09:36AM 20 Q. This is one of the meetings that you said Blaze was  
09:37AM 21 functioning as a peacemaker?

09:37AM 22 A. Not functioning as a peacemaker; he was coming up with  
09:37AM 23 other ideas.

09:37AM 24 Q. When you told us on direct testimony yesterday morning  
09:37AM 25 that Mr. Enix performed a function of peacemaker, it was the

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09:37AM 2 meeting in Florida immediately after you got back from South  
09:37AM 3 Buffalo, correct? Didn't you tell us that yesterday?

09:37AM 4 A. I recall you saying he functioned as a peacemaker and  
09:37AM 5 we agreeing and then I said with Pirk, and then you and I had  
09:37AM 6 discussion over me saying Pirk.

09:37AM 7 Q. But in terms of the timing of Mr. Enix saying in that  
09:37AM 8 function, am I incorrect that it was this meeting when you were  
09:37AM 9 back from New York and back in Lake County?

09:37AM 10 A. Then yes, you're incorrect.

09:37AM 11 Q. When did he function as a peacemaker?

09:37AM 12 A. Well, the term meaning that at times when Pirk would be  
09:38AM 13 upset about something, Blaze would try and talk to him and calm  
09:38AM 14 him down. He would function as a peacemaker to Pirk as  
09:38AM 15 sometimes the voice of reason and offer suggestions or  
09:38AM 16 alternatives to something David said.

09:38AM 17 Q. On those occasions, you witnessed Mr. Pirk hear Blaze  
09:38AM 18 out?

09:38AM 19 A. Absolutely.

09:38AM 20 Q. He would hear Blaze's opinion and then form his  
09:38AM 21 judgments after he heard what Blaze had to say?

09:38AM 22 A. Yes.

09:38AM 23 Q. And one such situation was when in this meeting after  
09:38AM 24 you're back from New York and in Florida, Mr. Enix agrees with  
09:38AM 25 Mr. Pirk that Filly and Special Ed, they deal dope and drugs

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09:38AM 2 and so we don't have to worry about these guys. They should be  
09:38AM 3 out of the club anyway. Didn't you hear Mr. Enix say that?

09:38AM 4 A. Did I hear Tim say that?

09:38AM 5 Q. Yes.

09:38AM 6 A. You're spinning the context of what he was saying.  
09:38AM 7 That is not the way the meeting was going.

09:38AM 8 Q. I'm not trying to spin anything. Let's talk about the  
09:39AM 9 words he used. You told us yesterday that you said these guys  
09:39AM 10 are wanting to deal dope or deal drugs and we're not going to  
09:39AM 11 have it. We don't have to pay attention to this?

09:39AM 12 A. The context of the meeting was how to get rid of them.

09:39AM 13 Q. I'm not asking about context. I'm talking about words.  
09:39AM 14 Words matter, right?

09:39AM 15 A. Yes, absolutely. So does the context of the meeting.

09:39AM 16 Q. You told the jury about a lot of words that you claim  
09:39AM 17 Mr. Enix used, correct?

09:39AM 18 A. Yes.

09:39AM 19 Q. And so it's important that we be precise about this.  
09:39AM 20 You recognize that?

09:39AM 21 A. I agree.

09:39AM 22 Q. So let's be precise. The words that Mr. Enix used, if  
09:39AM 23 I understand your testimony from yesterday correctly, was at  
09:39AM 24 one point Blaze said these guys are just wanting to deal dope  
09:39AM 25 or deal drugs and we're not going to have it. We don't have to

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09:39AM 2 pay attention to this. Isn't that what you told us yesterday?

09:39AM 3 A. Yes, I did. That was in response to what Blaze was  
09:39AM 4 responding to when he said yesterday --

09:39AM 5 Q. I understand that you seem to want to tell us something  
09:40AM 6 about context. Can we agree those are the words?

09:40AM 7 A. Yes, those are the words.

09:40AM 8 Q. And you also told us yesterday when Mr. Enix said these  
09:40AM 9 things, Mr. Pirk was calmed, yeah, Mr. Pirk was calmed by those  
09:40AM 10 words, didn't you?

09:40AM 11 A. No, was agitated in the whole meeting, and as Mr. Enix  
09:40AM 12 came up with other suggestions and was spit balling other  
09:40AM 13 ideas, David became, I guess, more determined than he was  
09:40AM 14 angry.

09:40AM 15 Q. Let me just see if I have your words from yesterday  
09:40AM 16 correct.

09:40AM 17 A. Okay.

09:40AM 18 Q. After Mr. Enix said what he said, did you tell us  
09:40AM 19 yesterday that Mr. Tripi asked you a question about did that  
09:40AM 20 calm Pirk down, and did you respond it would calm him down  
09:40AM 21 somewhat? He was still angry, but it calmed him down somewhat?

09:40AM 22 A. That is what I just said.

09:40AM 23 MR. TRIPI: Objection, facts not in evidence.

09:40AM 24 THE COURT: Mr. Haley, listen to the question and  
09:41AM 25 answer the question. Okay?



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09:41AM 2 THE WITNESS: Sorry.

09:41AM 3 Q. You heard what Tim Enix had to say, correct?

09:41AM 4 A. Yes.

09:41AM 5 Q. And what Mr. Enix said, from your view of Mr. Pirk,  
09:41AM 6 seemed to have some impact on him, correct?

09:41AM 7 A. Yes.

09:41AM 8 Q. And you and I may dispute what impact, but you agree it  
09:41AM 9 had some effect in some measure on Mr. Pirk?

09:41AM 10 A. Yes.

09:41AM 11 Q. And that was when the discussion turned to having  
09:41AM 12 Special Ed and Filly arrested for their drug activity, correct?

09:41AM 13 A. Yes.

09:41AM 14 Q. And then, of course, within a few weeks, both Special  
09:41AM 15 Ed and Filly were out of the club anyways, correct?

09:41AM 16 A. Yes.

09:41AM 17 Q. And those guys -- by the way, Special Ed and Filly, you  
09:41AM 18 were certainly glad they were gone? Maybe not you?

09:41AM 19 A. No, I was.

09:41AM 20 Q. Mr. Pirk had tried to throw Special Ed out of the club  
09:41AM 21 on an earlier occasion, correct?

09:41AM 22 A. Yes.

09:41AM 23 Q. And he had said to you, "If you want him in the club,  
09:42AM 24 he is your problem," correct?

09:42AM 25 A. Yes.

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09:42AM 2 Q. And you said, "Okay, I'll take him back in the club"?

09:42AM 3 A. Not those exact words.

09:42AM 4 Q. But in sum and substance?

09:42AM 5 A. Yes.

09:42AM 6 Q. And then on this occasion where there was talk about  
09:42AM 7 having Filly or Special Ed arrested -- I'm sorry, when they  
09:42AM 8 finally leave the club, your sense of Mr. Pirk's demeanor and  
09:42AM 9 reaction to that was that he was glad those guys were gone,  
09:42AM 10 correct?

09:42AM 11 A. Yes.

09:42AM 12 Q. He wanted Special Ed out of the club for a while,  
09:42AM 13 didn't he?

09:42AM 14 A. Yes.

09:42AM 15 Q. Would it be fair to say that your sense of Mr. Pirk's  
09:42AM 16 demeanor once Special Ed left is Mr. Pirk stopped talking about  
09:42AM 17 Special Ed?

09:42AM 18 A. Absolutely not. He was still obsessed with him.

09:42AM 19 Q. Special Ed and Filly Caruso were a cancer in the  
09:42AM 20 Kingsman Motorcycle Club, weren't they?

09:42AM 21 A. Yes.

09:42AM 22 Q. And their departure was the best thing that ever  
09:42AM 23 happened to the Kingsmen Motorcycle Club, wasn't it?

09:43AM 24 A. I wouldn't go that far, but it certainly was a good  
09:43AM 25 event for us.

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09:43AM 2 Q. Now, I want to talk to you about your testimony about  
09:43AM 3 the notion that Mr. Jenkins was put out of the club as part of  
09:43AM 4 some plot to infiltrate. Do you remember telling us about that  
09:43AM 5 on direct?

09:43AM 6 A. I do.

09:43AM 7 Q. Okay. Now, we looked yesterday at a Facebook post that  
09:43AM 8 you had made involving Special Ed coming out of the club,  
09:43AM 9 correct?

09:43AM 10 A. Yes.

09:43AM 11 Q. Let's take just another quick look at 153.9 at page 15.  
09:43AM 12 Just to refresh our memories, this was the post that you made  
09:43AM 13 on or about the 16th of August 2014. It would have been on the  
09:43AM 14 16th of August when you conveyed to the Kingsmen Nation that  
09:43AM 15 Special Ed was out of the club, correct?

09:43AM 16 A. Yes.

09:43AM 17 Q. And what you're saying in this message is that Special  
09:44AM 18 Ed is "out bad," correct? It doesn't say one way or the other  
09:44AM 19 as you can see -- doesn't say he is "out bad". It says he is  
09:44AM 20 out, and anyone out, as we identified "out bad" or good, you're  
09:44AM 21 not allowed to conduct Kingsmen business? That is what I want  
09:44AM 22 to talk to you about. There is a difference between coming out  
09:44AM 23 good and "out bad"?

09:44AM 24 A. Yes.

09:44AM 25 Q. And what is the difference between coming out good and

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09:45AM 2 "out bad"?

09:45AM 3 A. If you're out good, and that can only be done by the  
09:45AM 4 National President, you're allowed to still come to parties or  
09:45AM 5 allowed to share a meal and allowed to go to the Kingsmen  
09:45AM 6 houses. You're not allowed to discuss any Kingsmen business or  
09:45AM 7 wear any Kingsmen paraphernalia. If you're "out bad," you're  
09:45AM 8 not allowed to come to any Kingsmen clubhouses or allowed to  
09:45AM 9 come to Kingsmen parties or not allowed to discuss with any  
09:45AM 10 Kingsmen, and they're not to have any interaction with you.  
09:45AM 11 The other connotation if you're "out bad," you're not allowed  
09:45AM 12 to join another club. There was an agreement amongst the other  
09:45AM 13 clubs that if you were "out bad," the other club wouldn't pick  
09:45AM 14 you up. They only picked you up if you were out good.

09:45AM 15 Q. But the experience in the lead up to 2014, someone "out  
09:45AM 16 bad" would often be snatched up by a one-percent club?

09:45AM 17 A. Yes, despite the agreement.

09:45AM 18 Q. Despite whatever notion there was coming out as bad?

09:46AM 19 A. Yes.

09:46AM 20 Q. And this discussion of notion of "out bad" or out good,  
09:46AM 21 it's not unique to the Kingsmen Motorcycle Club. They are  
09:46AM 22 generally terms used in the motorcycle community?

09:46AM 23 A. Yes.

09:46AM 24 Q. Among clubs in addition to the Kingsmen, correct?

09:46AM 25 A. Yes.

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09:46AM 2 Q. Now, you told us, actually, you, on the 16th of  
09:46AM 3 November 2017, you had a long meeting with the FBI, correct?

09:46AM 4 A. Yes.

09:46AM 5 Q. And at that point in time, just to give us the  
09:46AM 6 chronology, and let me take a step back. You were arrested in  
09:46AM 7 October of 2017, correct?

09:46AM 8 A. October 19th.

09:46AM 9 Q. October 19th. And at the time of your arrest, you  
09:47AM 10 began speaking to the FBI about cooperating, correct?

09:47AM 11 A. Yes.

09:47AM 12 Q. And the very day of your arrest, you conveyed to the  
09:47AM 13 FBI that if the government would be agreeable to conditions  
09:47AM 14 that might have you released, it would make it more likely that  
09:47AM 15 you would come in and cooperate?

09:47AM 16 A. Yes.

09:47AM 17 Q. And in fact, what ended up happening was you were  
09:47AM 18 released on the day of your arraignment, correct?

09:47AM 19 A. Yes.

09:47AM 20 Q. And you began cooperating?

09:47AM 21 A. Yes.

09:47AM 22 Q. And now on the 16th of November 2017, you had begun,  
09:47AM 23 you were in the midst of your cooperation with the government,  
09:47AM 24 correct?

09:47AM 25 A. Yes.

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09:47AM 2 Q. And at that point in time, you started telling the  
09:47AM 3 government some of the information that you have conveyed to  
09:47AM 4 the jury and to those of us here in the courtroom during your  
09:48AM 5 direct examination testimony, correct?

09:48AM 6 A. Yes.

09:48AM 7 Q. And what you told the FBI on the 16th of November, 2017  
09:48AM 8 was that the supposed infiltration plot involved putting  
09:48AM 9 Jenkins "out bad"; do you remember saying that?

09:48AM 10 A. Yes.

09:48AM 11 Q. And you told the FBI that this supposed plot was that  
09:48AM 12 your claim is Pirk told you he was going to put someone "out  
09:48AM 13 bad" so they could infiltrate, right?

09:48AM 14 A. It was an ongoing evolving conversation that ended up  
09:48AM 15 with that statement.

09:48AM 16 Q. The words I just said you said to the FBI, right?

09:48AM 17 A. Yes.

09:48AM 18 Q. Now, you understand that if somebody was put "out bad,"  
09:49AM 19 they may very well do what Special Ed had done, which is jump  
09:49AM 20 over to another club like the Nickel City Nomads, correct?

09:49AM 21 MR. TRIPI: Objection.

09:49AM 22 THE COURT: Sustained.

09:49AM 23 Q. Let me rephrase it. You had seen Special Ed put "out  
09:49AM 24 bad," correct?

09:49AM 25 A. Yes.

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09:49AM 2 Q. Looking at the message right on the screen there?

09:49AM 3 A. I said yes.

09:49AM 4 Q. And when you saw Special Ed put "out bad," a very short  
09:49AM 5 time later, you saw him jump over to the Nickel City Nomads,  
09:49AM 6 correct?

09:49AM 7 A. Yes.

09:49AM 8 Q. And that was something that you certainly observed. It  
09:49AM 9 was not a secret that he had done that. It was well known that  
09:49AM 10 he had jumped over to the Nomads, correct, the Nickel City  
09:49AM 11 Nomads?

09:49AM 12 A. Yes. But again, this message doesn't put him "out  
09:49AM 13 bad". But I agree he was "out bad".

09:49AM 14 Q. To be fair, in this message, you don't use the phrase  
09:49AM 15 "out bad"?

09:49AM 16 A. Yes, that is my point. It hadn't been designated yet  
09:49AM 17 by David.

09:49AM 18 Q. You understood if not expressly stated in the message,  
09:49AM 19 you understood he was being put "out bad"?

09:50AM 20 A. Yes.

09:50AM 21 Q. And after he was put "out bad," he immediately jumped  
09:50AM 22 over to the Nickel City Nomads, correct?

09:50AM 23 A. I'm not sure of the time frame "immediately," but a  
09:50AM 24 short period of time.

09:50AM 25 Q. Within a couple of weeks?

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09:50AM 2 A. Okay, yes.

09:50AM 3 Q. And so the move that Special Ed had made to become a  
09:50AM 4 Nickel City Nomad involved him coming "out bad" from the  
09:50AM 5 Kingsmen and then joining the Nickel City Nomads, correct?

09:50AM 6 A. Yes.

09:50AM 7 Q. And, in fact, what happened with Mr. Jenkins was that  
09:50AM 8 Mr. Enix put him out good, correct?

09:50AM 9 A. I'm not sure.

09:50AM 10 Q. You don't recall whether the Facebook post from Mr.  
09:50AM 11 Enix put Little Bear out good?

09:50AM 12 A. I know it said -- I would have to read the post again.  
09:50AM 13 I think I'm under that impression. Yeah, I don't believe it  
09:50AM 14 said -- I would need to read it. I'm not sure.

09:51AM 15 Q. Okay.

09:51AM 16 MR. GRABLE: I don't have it handy, your Honor.  
09:51AM 17 Could I take a moment and find it?

09:51AM 18 MR. TRIPI: We can pull it up, 153.8.

09:51AM 19 Q. We're looking at page 5 of 153.8, and take a look at  
09:51AM 20 that.

09:51AM 21 A. I do now. He makes the statement he is not "out bad,"  
09:51AM 22 but he is out.

09:51AM 23 Q. And so this refreshes your memory that when it was  
09:51AM 24 posted to the Kingsmen Motorcycle Club page on the 31st of  
09:51AM 25 August, 2014, that Little Bear, meaning Andre Jenkins, was



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09:51AM 2 being put out but out good, correct?

09:52AM 3 A. Yes.

09:52AM 4 Q. And the reason, at least according to the message, that  
09:52AM 5 he is coming put out good is because he hasn't had a bike for a  
09:52AM 6 while, correct?

09:52AM 7 A. That is what they post, yes.

09:52AM 8 Q. And you understood that by the 31st of August 2014, Mr.  
09:52AM 9 Jenkins had not been in possession of a motorcycle, correct?

09:52AM 10 A. No, I wasn't aware of that because he had, I think,  
09:52AM 11 ridden a motorcycle. When I met him, he was on a motorcycle.  
09:52AM 12 It just wasn't his. But that was certainly brought to my  
09:52AM 13 attention.

09:52AM 14 Q. In terms of an ownership of a motorcycle that he was  
09:52AM 15 riding that was his own, it's accurate to say he didn't own a  
09:52AM 16 motorcycle?

09:52AM 17 A. To be fair, I learned about that in this post. I had  
09:52AM 18 seen him on a motorcycle.

09:52AM 19 Q. So putting someone out good in the motorcycle community  
09:52AM 20 and the motorcycle club community would convey somebody was out  
09:52AM 21 but may be coming back to the club at some point, right?

09:53AM 22 A. Yes.

09:53AM 23 Q. And that was a clearly understood notion across the  
09:53AM 24 motorcycle club community, correct?

09:53AM 25 A. Yes.

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09:53AM 2 Q. So if someone were to want to put out posts that would  
09:53AM 3 facilitate infiltrating a one-percent club, the best thing  
09:53AM 4 would be to put them "out bad" or say nothing at all, correct?

09:53AM 5 MR. TRIPI: Objection.

09:53AM 6 THE COURT: Sustained.

09:53AM 7 Q. If you wanted to set it up so someone could infiltrate  
09:53AM 8 a one-percent club, you certainly wouldn't put them out good  
09:53AM 9 from their current club, would you?

09:53AM 10 MR. TRIPI: Objection, speculation.

09:53AM 11 THE COURT: He is asking about him, so overruled.

09:53AM 12 A. Would you ask me again?

09:53AM 13 Q. If you were going to put someone out in the hopes that  
09:53AM 14 they could infiltrate a one-percent club, and particularly the  
09:53AM 15 one-percent club that Special Ed had joined, it would make more  
09:53AM 16 sense if you were doing to put him "out bad"?

09:53AM 17 A. No. If I going to take him to Tennessee first to get  
09:53AM 18 stuff, I'd have to allow him to be out good to be able to do  
09:54AM 19 that.

09:54AM 20 Q. I asked him if someone wanted to -- if someone wanted  
09:54AM 21 to infiltrate and you volunteered the information about  
09:54AM 22 Tennessee?

09:54AM 23 A. You asked me what I would do.

09:54AM 24 Q. Did you meet or speak to anyone last night?

09:54AM 25 A. No.

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09:54AM 2 Q. Did you speak to your lawyer yesterday?

09:54AM 3 A. Yes.

09:54AM 4 Q. After we broke?

09:54AM 5 A. Yes.

09:54AM 6 Q. And you understand, I don't want you to tell us what  
09:54AM 7 you talked to your lawyer about, I can't ask you that, but you  
09:54AM 8 understand that from the events that transpired yesterday, that  
09:54AM 9 if you give testimony that the government finds to be contrary  
09:54AM 10 to what they say you've told them in the past, that you may  
09:54AM 11 lose the benefit of your substantial assistance?

09:54AM 12 MR. TRIPI: Objection. We never asked the  
09:54AM 13 hypothetical that Mr. Grable did know personal knowledge.

09:54AM 14 MR. GRABLE: I can rephrase.

09:54AM 15 Q. You're trying to hold on to your substantial assistance  
09:54AM 16 benefit?

09:54AM 17 A. You handled that point with me, yes. I'm very sure.

09:55AM 18 Q. It's a concern of yours throughout your testimony?

09:55AM 19 A. Not with my lawyer yesterday, but with you, yeah. I'm  
09:55AM 20 clear on it.

09:55AM 21 Q. But the notion that Little Bear was put "out bad" is a  
09:55AM 22 false notion, correct? You see the evidence right in front of  
09:55AM 23 you?

09:55AM 24 A. It was something discussed but not the end result.

09:55AM 25 Q. Did you understand my question?

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09:55AM 2 A. Evidently not.

09:55AM 3 Q. Let me try and say it again. The notion that Andre  
09:55AM 4 Jenkins was put "out bad" is a false notion, correct?

09:55AM 5 A. Yes.

09:55AM 6 Q. And so when you told the FBI that he was put "out bad,"  
09:55AM 7 that was false, correct?

09:55AM 8 A. I believe what I told the FBI was there was a plan to  
09:55AM 9 put him "out bad".

09:55AM 10 Q. Was it true or false that you told the FBI that he was  
09:55AM 11 put "out bad"?

09:55AM 12 MR. TRIPI: Objection, improper impeachment.

09:55AM 13 THE COURT: Sustained.

09:55AM 14 Q. It's bologna that he was put "out bad," correct?

09:55AM 15 A. It wasn't bologna, it's the end result that they didn't  
09:56AM 16 put him "out bad".

09:56AM 17 Q. Throughout the testimony, as you said in various points  
09:56AM 18 in time, you used the phrase, "I believe"?

09:56AM 19 A. Yes. You and I discussed it.

09:56AM 20 Q. Would you agree that over the course of your testimony,  
09:56AM 21 you said it more than 20 times, I believe?

09:56AM 22 A. Yes.

09:56AM 23 Q. And you agree with that?

09:56AM 24 A. Yes.

09:56AM 25 Q. And you, "for decades," have been engaged in the abuse

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09:56AM 2 of marijuana up until the time of your arrest, correct?

09:56AM 3 A. Correct.

09:56AM 4 Q. And you were also in the time leading up to your arrest  
09:56AM 5 oftentimes engaged in chronic abuse of alcohol?

09:56AM 6 A. No.

09:56AM 7 Q. Well, when you fell down drunk and shot yourself in the  
09:56AM 8 rear end, wasn't that a point in time when you were having  
09:57AM 9 trouble with alcohol?

09:57AM 10 MR. TRIPI: It was like 30 years ago.

09:57AM 11 THE COURT: It came out.

09:57AM 12 A. Thirty years ago, not up until my arrest.

09:57AM 13 Q. But you had trouble with the chronic abuse of alcohol  
09:57AM 14 at certain points in your life, didn't you?

09:57AM 15 A. No. I was drinking a lot up until the point where I  
09:57AM 16 was arrested for DWI that we discussed, and after that DWI and  
09:57AM 17 completing the programs, I rarely drank.

09:57AM 18 Q. The fact of the matter is that your long-term abuse of  
09:57AM 19 marijuana and alcohol had some impact on your memory, right?

09:57AM 20 MR. TRIPI: Facts not in evidence, long-term abuse  
09:57AM 21 of alcohol.

09:57AM 22 THE COURT: Let's separate it. You said marijuana  
09:57AM 23 and alcohol, Mr. Grable. Let's stick with the marijuana.

09:57AM 24 MR. GRABLE: I will. Thank you.

09:57AM 25 Q. Your decades of using marijuana has had some effect on

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09:57AM 2 your memory, correct?

09:57AM 3 A. I wouldn't think so.

09:58AM 4 Q. And you, in one of your Facebook posts that we looked  
09:58AM 5 at during the direct testimony, you referred to marijuana as  
09:58AM 6 chronic?

09:58AM 7 A. As the chronic, that is slang term.

09:58AM 8 Q. That is the slang term that people use to describe  
09:58AM 9 marijuana?

09:58AM 10 A. Yes.

09:58AM 11 Q. And it's ironic that you would choose that word. You  
09:58AM 12 had the chronic problem from the 1970s up to 2015 with  
09:58AM 13 marijuana, haven't you?

09:58AM 14 A. Yes.

09:58AM 15 Q. Now, when you came back to the Kingsmen Motorcycle Club  
09:58AM 16 in 2012 and into the early part of 2013 when Mr. Pirk was  
09:58AM 17 coming back into the club or in the discussion to become the  
09:59AM 18 President of the Kingsmen Motorcycle Club, you witnessed, and  
09:59AM 19 I'm not going to go back over it, and I'm orienting you, you  
09:59AM 20 witnessed the interactions between Mr. Pirk and Mr. Enix  
09:59AM 21 throughout 2013 and throughout 2014 as well, correct?

09:59AM 22 A. Yes.

09:59AM 23 Q. And you became aware now prior to Mr. Enix becoming the  
09:59AM 24 Regional President of Florida, he was the Chapter President at  
09:59AM 25 Lake County, correct?

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09:59AM 2 A. Yes.

09:59AM 3 Q. And who was the Regional President before him?

09:59AM 4 A. Glen Buzzy, I believe. I say "I believe," to the best  
09:59AM 5 of my recollection.

09:59AM 6 Q. I appreciate that you're telling us you're not  
09:59AM 7 positive, but the best recollection that you have as you sit  
09:59AM 8 here was Buzzy was the Regional President before Mr. Enix?

09:59AM 9 A. Yes.

09:59AM 10 Q. And Buzzy was your friend from the Pasco County Fire  
09:59AM 11 Department?

09:59AM 12 A. Yes.

09:59AM 13 Q. And so when you came back into the club, would it be  
09:59AM 14 fair to say that by that point, Buzzy was the Regional  
10:00AM 15 President of Florida?

10:00AM 16 A. Yes.

10:00AM 17 Q. And did you come back into the club as a Nomad  
10:00AM 18 President or was that something that happened a little later?

10:00AM 19 A. It happened a little later. I came back as a Nomad.

10:00AM 20 Q. And one of the things that you hoped when you came back  
10:00AM 21 into the club is with Mr. Pirk in charge as opposed to Mr.  
10:00AM 22 Spry, you would have a larger leadership role within the club,  
10:00AM 23 right?

10:00AM 24 A. No.

10:00AM 25 Q. You certainly wanted to be national Nomad President,

1 D. HALEY - CX BY MR. GRABLE

10:00AM 2 right?

10:00AM 3 A. Yes.

10:00AM 4 Q. And that would be a prominent leadership position in  
10:00AM 5 the club?

10:00AM 6 A. It is more of a figurehead more than prominent  
10:00AM 7 leadership.

10:00AM 8 Q. A number of times, you complained about not coming  
10:00AM 9 fully in charge of the Nomads; is that correct?

10:00AM 10 A. No, that's not correct.

10:00AM 11 Q. At various points, you showed displeasure with Mr. Pirk  
10:00AM 12 and others that the Nomads were engaging in certain functions  
10:00AM 13 without you commanding them to do?

10:01AM 14 A. Yes, that they were answering to Regional Presidents.

10:01AM 15 Q. And you didn't like them answering to Regional  
10:01AM 16 Presidents because you were the national Nomad President?

10:01AM 17 A. That is not why.

10:01AM 18 Q. And when you tried to get the club on good legal  
10:01AM 19 footing with the hiring of the lawyer, Mr. Pirk made it clear  
10:01AM 20 to you that he thought you screwed that up?

10:01AM 21 A. He thought I what?

10:01AM 22 Q. He thought you screwed it up?

10:01AM 23 A. No, he didn't think I screwed it up. He thought I  
10:01AM 24 didn't produce what the lawyer said he was going to. I wasn't  
10:01AM 25 the lawyer.



1 D. HALEY - CX BY MR. GRABLE

10:01AM 2 Q. That was the point of Mr. Pirk relying on Mr. Enix, not  
10:01AM 3 Tim Haley?

10:01AM 4 A. Mr. Pirk was relying on Mr. Enix all along.

10:01AM 5 Q. And when the legal were done by Mr. Enix, he seemed to  
10:01AM 6 rely more on Mr. Enix and less on Tim Haley, correct?

10:02AM 7 A. Yes.

10:02AM 8 Q. So your understanding when you came back in the club  
10:02AM 9 you might have a leadership role was diminished in some measure  
10:02AM 10 with the events that unfolded in 2015, correct?

10:02AM 11 A. Which events?

10:02AM 12 Q. The events that included your lesser access to Mr. Pirk  
10:02AM 13 and leadership and Mr. Enix's greater access to Mr. Pirk. That  
10:02AM 14 is something that you weren't happy about, correct?

10:02AM 15 A. It wasn't an access. We both had equal access to  
10:02AM 16 David, but David would follow his advice more than mine.

10:02AM 17 Q. Would it be fair to say around the Kingsmen clubhouses,  
10:02AM 18 you were a guy that was constantly expressing his opinion about  
10:02AM 19 various things?

10:02AM 20 A. Yes.

10:02AM 21 Q. And you would perhaps take umbrage when people didn't  
10:02AM 22 listen to your opinion?

10:02AM 23 A. Yes.

10:02AM 24 Q. And you would take umbrage when people treated you as a  
10:02AM 25 windbag?

1 D. HALEY - CX BY MR. GRABLE

10:02AM 2 A. I was never treated as a windbag.

10:02AM 3 Q. Well, people, because of your long speeches in the  
10:03AM 4 clubhouses, started to ignore you, correct?

10:03AM 5 A. No.

10:03AM 6 Q. Now, near the end of your testimony when Mr. Easton was  
10:03AM 7 cross-examining you, you remember who Mr. Easton is?

10:03AM 8 A. Yes.

10:03AM 9 Q. And he cross-examined you yesterday; do you remember  
10:03AM 10 that?

10:03AM 11 A. Yes.

10:03AM 12 Q. And near the end of his cross-examination of you, he  
10:03AM 13 asked you about whether you had a club nickname by the name of  
10:03AM 14 Snake; do you remember that?

10:03AM 15 A. Yes.

10:03AM 16 Q. And you told him not in the last 20 years. Do you  
10:03AM 17 remember saying that?

10:03AM 18 A. Yes.

10:03AM 19 Q. And you said that was a nickname that you had gotten  
10:04AM 20 from your prowess in kickboxing; remember that?

10:04AM 21 A. Yes.

10:04AM 22 Q. Was the date of your arrest the 19th of October?

10:04AM 23 A. Yes.

10:04AM 24 Q. And when they arrested you in Daytona, they took you in  
10:04AM 25 a room where you sat with an agent by the name Agent Brown. Do

1 D. HALEY - CX BY MR. GRABLE

10:04AM 2 you remember that?

10:04AM 3 A. No. Just a minor point, I wasn't arrested in Daytona.

10:04AM 4 Q. So wherever you were arrested, you do recall sitting in  
10:04AM 5 a room with FBI Special Agent Brown while they were waiting to  
10:04AM 6 take you for processing to the courthouse?

10:04AM 7 A. Yes.

10:04AM 8 Q. And you sat there for about an hour, correct?

10:04AM 9 A. That would be fair, yes.

10:04AM 10 Q. And during that hour, that was the point in time where  
10:04AM 11 you had some of the discussions we talked about earlier this  
10:04AM 12 morning, where you began to discuss the topic of cooperation  
10:04AM 13 with the FBI?

10:04AM 14 A. Yes.

10:04AM 15 Q. And that was the point in time when the FBI right at  
10:05AM 16 your arrest on that day told you about the term substantial  
10:05AM 17 assistance, correct?

10:05AM 18 A. Yes.

10:05AM 19 Q. And you understood from that discussion immediately  
10:05AM 20 upon your arrest that substantial assistance was something that  
10:05AM 21 could result in you getting released while your case was  
10:05AM 22 pending, correct?

10:05AM 23 A. No, I didn't relate it to getting released that day. I  
10:05AM 24 related it to how it might affect the charges long-term.

10:05AM 25 Q. And you were concerned at that point that you were

1 D. HALEY - CX BY MR. GRABLE

10:05AM 2 going to be convicted of charges, correct?

10:05AM 3 A. Yes.

10:05AM 4 Q. You were beginning to think about ways that you may  
10:05AM 5 minimize the impact of those charges in terms of the jail time  
10:05AM 6 you would have to do, correct?

10:05AM 7 A. Certainly.

10:05AM 8 Q. And the hour or so that you spent on your arrest in the  
10:05AM 9 room with Agent Brown, they read you your rights, but you did a  
10:05AM 10 lot of talking, correct?

10:06AM 11 A. Yes.

10:06AM 12 Q. That is sort of your habit. You do a lot of talking,  
10:06AM 13 right?

10:06AM 14 A. Yes.

10:06AM 15 Q. And that was certainly true that day, the day of your  
10:06AM 16 arrest, correct?

10:06AM 17 A. Yes.

10:06AM 18 Q. And at the point in time where another agent came in to  
10:06AM 19 process for you to be taken over to the courthouse, you talked  
10:06AM 20 about your nickname Snake, didn't you?

10:06AM 21 A. I don't recall that.

10:06AM 22 Q. I'd like to play, Judge -- we have a disc that has been  
10:06AM 23 marked 3589.3 and I would like to play a portion of it. We  
10:06AM 24 have it cued up.

10:06AM 25 MR. TRIPI: Judge, I would like to view it before

1 D. HALEY - CX BY MR. GRABLE

10:06AM 2 it gets viewed.

10:06AM 3 THE COURT: Let's do this. Let's take a break.

10:06AM 4 Let's plan on a 10-minute break or so. How long is the video?

10:06AM 5 MR. GRABLE: A minute maybe. The video itself is  
10:06AM 6 an hour.

10:06AM 7 THE COURT: But we're not doing that, right?

10:06AM 8 MR. GRABLE: Correct.

10:06AM 9 THE COURT: Let's plan on 10 minutes. We'll see  
10:06AM 10 you back here shortly.

10:07AM 11 (Whereupon, the jury is escorted from the  
10:07AM 12 courtroom.)

10:07AM 13 THE COURT: Mr. Haley, you can step down and step  
10:07AM 14 out of the courtroom if you would.

10:07AM 15 MR. TRIPI: Your Honor, I guess my objection is we  
10:07AM 16 can play the video for Mr. Haley if that refreshes his  
10:07AM 17 recollection. Then he answers in the affirmative and we don't  
10:08AM 18 need to play the extrinsic evidence in the jury.

10:08AM 19 THE COURT: If it's inconsistent with what he said  
10:08AM 20 to Mr. Easton.

10:08AM 21 MR. TRIPI: That's true. I neglected to recall.

10:08AM 22 THE COURT: Let's see what it says.

10:08AM 23 MR. GRABLE: So we can play it whenever you're  
10:08AM 24 ready. So we would play two portions. The first would be  
10:08AM 25 right at the beginning without audio, just to orient Mr. Haley

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10:08AM 2 to the fact we're talking about the situation that I described.

10:08AM 3 Sarah, if you could play the first little piece  
10:08AM 4 without audio.

10:08AM 5 THE COURT: Got his hair cut.

10:08AM 6 MR. GRABLE: We'll pause it there and I'll ask him  
10:08AM 7 if that is him, and these are the circumstances we're talking  
10:08AM 8 about and then I go to 3805 and we would play this with audio.  
10:08AM 9 (Video is played. )

10:09AM 10 MR. TRIPI: I didn't hear him. His nickname is  
10:09AM 11 Snake and I heard the bosses would say he is a snake.

10:09AM 12 MR. GRABLE: If you asked him, he said 20 years.

10:09AM 13 MR. TRIPI: I think if you go back a minute, I  
10:09AM 14 don't think he says he was called Snake.

10:09AM 15 THE COURT: Let's do that.

10:10AM 16 MR. TRIPI: I disagree that it's a nickname at  
10:10AM 17 that juncture, your Honor, and that is the purpose it's offered  
10:10AM 18 for.

10:11AM 19 THE COURT: I just want to pull up Mr. Easton's  
10:11AM 20 cross.

10:11AM 21 MR. GRABLE: Judge, I may have a copy. May I  
10:11AM 22 approach?

10:11AM 23 THE COURT: Sure, of course. All right. Looking  
10:12AM 24 at and refreshing my recollection as to Mr. Easton's cross, it  
10:12AM 25 was clearly in the context of a nickname. It was replaced with

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10:12AM 2 Masse's Weirdo, Enix is Blaze, Caruso is Filly, and you're  
10:12AM 3 Snake. You're called Snake. He says not in 20 years. He is  
10:12AM 4 not saying there that his nickname is Snake. He is saying he  
10:12AM 5 would be called Snake. I'm not saying you can't get him back  
10:12AM 6 in here and ask him, isn't it true that if you were to ask  
10:12AM 7 other members of the Kingsmen about you, they would call you a  
10:12AM 8 snake, and if he says "no," then this gets admitted. But if he  
10:12AM 9 says "yes," then it's consistent with what he says to the  
10:12AM 10 agent.

10:12AM 11 MR. GRABLE: Judge, I take the position this is  
10:12AM 12 inconsistent with his testimony. He clearly here in the video  
10:12AM 13 is saying today they would say I'm Snake. He is saying in the  
10:13AM 14 testimony in response to Mr. Easton yesterday, they haven't  
10:13AM 15 called him Snake in 20 years.

10:13AM 16 THE COURT: He is saying it's not a nickname that  
10:13AM 17 has been used in 20 years. Mr. Easton's cross is clearly  
10:13AM 18 conditioned on nicknames.

10:13AM 19 MR. GRABLE: And he is, essentially, making the  
10:13AM 20 admission on the video that he won't make here unless we play  
10:13AM 21 the video, that is someone called Snake and thrown in and out  
10:13AM 22 of the club and he impeaches, it was, a kickboxing, and he  
10:13AM 23 aggrandized himself to the jury and he should be made to  
10:13AM 24 respond.

10:13AM 25 THE COURT: And get him back in and ask him isn't

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10:13AM 2 it true that people in the clubhouse would call you a snake and  
10:13AM 3 if you were to ask people about Tim Haley, they would refer to  
10:13AM 4 you as a snake.

10:13AM 5 MR. TRIPI: I object to that as hearsay grounds.

10:13AM 6 THE COURT: It's not coming in offered for truth.  
10:13AM 7 It's offered for perception of the other Kingsmen.

10:13AM 8 MR. TRIPI: Objection.

10:13AM 9 THE COURT: I'll overrule the objection. I'll let  
10:13AM 10 you ask him that. And he either says yes, they would refer to  
10:14AM 11 me as a Snake, and then it's not inconsistent. And if he says  
10:14AM 12 no, nobody would refer to me that way, use this language. The  
10:14AM 13 basis for getting this in is Mr. Easton's cross. Nicknames  
10:14AM 14 aren't -- people known by nicknames. Aren't you known by the  
10:14AM 15 nickname Snake, and he says not in 20 years. I don't hear this  
10:14AM 16 at all referencing that is my nickname or that is my alias. He  
10:14AM 17 is referring to the term Snake in the derogatory manner based  
10:14AM 18 on his behavior. It's not a nickname.

10:14AM 19 MR. GRABLE: He could be redirected on that. That  
10:14AM 20 is certainly an issue of weight. I don't know that is an issue  
10:14AM 21 of admissibility if the government wants to say what did you  
10:14AM 22 mean when you said it in the context of interview.

10:14AM 23 THE COURT: The Court has a lot of discretion to  
10:14AM 24 determine what is inconsistent or not and I don't view that  
10:15AM 25 statement by Mr. Haley to Agent Brown is inconsistent with what



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10:15AM 2 he said to Mr. Easton on cross-examination. That is my ruling,  
10:15AM 3 but I will allow you to elicit that testimony. Mr. Tripi can  
10:15AM 4 object. I'll allow you to elicit the testimony, and if he  
10:15AM 5 denies it, then it's fair game to introduce it.

10:15AM 6 MR. TRIPI: I think I know the result of the  
10:15AM 7 objection which I probably won't object.

10:15AM 8 THE COURT: You are welcome to.

10:15AM 9 So let's take a quick break. If Jim has 10  
10:24AM 10 minutes, I won't take a break of redirect.

10:24AM 11 MR. TRIPI: Two things sort of go towards -- it's  
10:24AM 12 the government's position that Mr. Haley is hostile to the  
10:24AM 13 Government's theory of the case with regard to Tim Enix as a  
10:24AM 14 peacemaker, and with regard to wanting drug dealers out of the  
10:24AM 15 organization, and with regard to, specifically, Haley saying he  
10:24AM 16 didn't want to do be in a criminal organization. That is three  
10:24AM 17 areas where I look to impeach him. I point the Court to *United*  
10:24AM 18 *States vs. Isan*. I don't know if that is the case you cited  
10:24AM 19 yesterday. In that case, they did it with 11 out of 75  
10:24AM 20 witnesses.

10:24AM 21 (Whereupon, Messrs. Pirk and Enix were escorted  
10:24AM 22 into the courtroom.)

10:24AM 23 THE COURT: They were calling them knowing that  
10:24AM 24 they didn't believe them to begin with.

10:24AM 25 MR. TRIPI: And so although there was some of that

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10:25AM 2 equivocation in his 302s on some of those topics, he never once  
10:25AM 3 mentioned May 2016, he in fact fingers Mr. Enix as one of the  
10:25AM 4 people behind the murder. He never refers to him as a  
10:25AM 5 peacemaker. The day of the arrest, he essentially --

10:25AM 6 THE COURT: Say that again. First in May of 2016,  
10:25AM 7 he in fact fingers Mr. Enix as someone behind the murder?

10:25AM 8 MR. TRIPI: Absolutely. Because he has Facebook  
10:25AM 9 posts to other Kingsmen. He says I know for a fact Pirk, Enix  
10:25AM 10 and Green were behind the murders. They interview them and he  
10:25AM 11 backs off the personal knowledge, and he says I came to the  
10:25AM 12 conclusion that Enix, Pirk and Green were behind the murders,  
10:25AM 13 and he explains how he came to that conclusion. Never once did  
10:25AM 14 he ever characterize any of the three of them, much less Mr.  
10:25AM 15 Enix as a peacemaker in any context. Again, on the day he is  
10:26AM 16 arrested, he invokes, he doesn't characterizes him as a  
10:26AM 17 peacemaker. And proffer one, proffer two and proffer three,  
10:26AM 18 and before your Honor, never characterizes anyone as a  
10:26AM 19 peacemaker. So I'm going to cross-examine him on the topic.

10:26AM 20 What we have is someone who is a Kingsman 40 years  
10:26AM 21 on or off throughout their life. Mr. Haley clearly was in the  
10:26AM 22 inner circle with Mr. Pirk and Mr. Enix, but is friends with  
10:26AM 23 Mr. Enix's son, Tank, the one that called him to the South  
10:26AM 24 Buffalo confrontation. Known Mr. Pirk 40 years, got brought  
10:26AM 25 back to the organization by Mr. Pirk. Clearly there is enough

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10:26AM 2 evidence in the record to show he is adverse to the government.

10:26AM 3 In a lot of ways he is still aligned with them.

10:26AM 4 THE COURT: With the Kingsmen.

10:26AM 5 MR. TRIPI: Yes. His family started the Kingsmen.

10:26AM 6 It's clear that he is trying to -- he is a mixed bag up here

10:27AM 7 and the government is allowed to impeach him on areas that

10:27AM 8 don't support the government's theory of the case that would be

10:27AM 9 true with respect to drug dealing. He admitted before your

10:27AM 10 Honor the purposes of the Kingsmen were drug dealing and

10:27AM 11 maintaining drug premises and he repeatedly made mention of

10:27AM 12 wanting to get the drug dealers out.

10:27AM 13 The last thing that happened before he testified a

10:27AM 14 proffered before he pled your Honor and then he testified

10:27AM 15 clearly by the time he admits under oath to your Honor that the

10:27AM 16 organization, he was in agreement that there was drug

10:27AM 17 distribution and you would expect that to be clear on the stand

10:27AM 18 and it was far from it.

10:27AM 19 So I believe I can impeach him in that area and

10:27AM 20 cross-examine him and impeach with an inconsistent statement,

10:27AM 21 cross-examine him on his relationship to Pirk and the Kingsmen

10:27AM 22 in general, and cross-examine him on redirect as it relates to

10:28AM 23 the one-percent notion. He has a multitude -- and in his own

10:28AM 24 indictment, where he describes the Kingsmen as a one-percent,

10:28AM 25 contradicts the testimony that he has on the stand today.

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10:28AM 2 THE COURT: I thought he said they are one-percent  
10:28AM 3 but not in name. That is how I understood.

10:28AM 4 MR. TRIPI: He said that, but two questions later,  
10:28AM 5 he said "no." You know, it's clear, if you look at his  
10:28AM 6 Facebooking, the Kingsmen are a one-percent club and he is  
10:28AM 7 posting that right in the time period that Mr. Pirk is the  
10:28AM 8 National President. And so I believe I can cross-examine him  
10:28AM 9 on that as well. So that is a topic, and I had a couple other  
10:28AM 10 cases other than that one, if you're interested. I think he is  
10:28AM 11 seen as the most persuasive in that line.

10:28AM 12 And then I kind of sat back waiting for a while  
10:28AM 13 because we've had maybe three or four cross-examinations or  
10:29AM 14 three or four witnesses where they leave the imperfect  
10:29AM 15 education, that "substantial assistance" is a term the  
10:29AM 16 government made up. It's the standard in 5K1.1.

10:29AM 17 I'm asking the Court to take judicial notice and  
10:29AM 18 instruct the jury as to the requirement of 5K1.1 that is  
10:29AM 19 written in the cooperation agreement. They're leaving the  
10:29AM 20 impression that it is a Joe Tripi word they made up, but it's  
10:29AM 21 the law.

10:29AM 22 THE COURT: You're asking to take judicial notice?

10:29AM 23 MR. TRIPI: And instruct the jury to what 5K1.1 --  
10:29AM 24 I ask you to read 5K1.1(a) through 5 upon motion of the  
10:29AM 25 government, stating the defendant has provided substantial

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10:29AM 2 assistance in the investigation or prosecution of another  
10:29AM 3 person that committed an offense.

10:29AM 4 The Court may depart from the Guidelines and go  
10:29AM 5 into subparagraph A-1 through 5. I would like that read to the  
10:29AM 6 jury.

10:30AM 7 THE COURT: Okay. Let's hear from defense  
10:30AM 8 counsel. We'll start with judicial notice of 5K1.1.

10:30AM 9 MR. CONNORS: The only way that term has been used  
10:30AM 10 is to quote the plea agreement that was the reference to it.  
10:30AM 11 It's in the plea agreement as a section in the plea agreement  
10:30AM 12 pointing out that he signed an agreement that said he has to  
10:30AM 13 not just be truthful, which is what some witnesses have said.  
10:30AM 14 They have to provide substantial assistance. There is no  
10:30AM 15 reference we made this up or suggested that Joe made it up or  
10:30AM 16 it's a government term. We took it from the plea agreement and  
10:30AM 17 questioned the witnesses on that topic.

10:30AM 18 THE COURT: Why would it be inappropriate to take  
10:30AM 19 judicial notice as a provision of the statute that there is  
10:30AM 20 something to their plea agreement?

10:31AM 21 MR. CONNORS: Right now, the cross-examination is  
10:31AM 22 what it is. It's a matter for summation. Also, I just think  
10:31AM 23 it would draw undue innocence and underscore a point by the  
10:31AM 24 Court, which shouldn't erode any of the cross-examination.

10:31AM 25 THE COURT: Okay. This is what I will let you do.

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10:31AM 2 MR. TRIPI: I want it done on redirect, just to be  
10:31AM 3 clear.

10:31AM 4 THE COURT: I'll let you redirect him about the  
10:31AM 5 Sentencing Guidelines. Okay.

10:31AM 6 MR. TRIPI: If he doesn't know, I can read it in.

10:31AM 7 THE COURT: Yes, I'll let you do that.

10:31AM 8 MR. TRIPI: Can I borrow your book?

10:31AM 9 THE COURT: Yes, nice and clean, and if defense  
10:31AM 10 has an objection to it, you're welcome to make an objection and  
10:31AM 11 I'll allow Mr. Tripi to do that.

10:31AM 12 MR. TRIPI: I'll get a photocopy. Thank you.

10:31AM 13 MR. CONNORS: Why not use a document that has been  
10:31AM 14 marked with an agreement?

10:31AM 15 THE COURT: Because the Sentencing Guidelines, the  
10:31AM 16 plea agreement makes reference to 5K1.1 and then uses language  
10:31AM 17 from 5K1.1. But it's 5K1.1 which is the operating triggering  
10:32AM 18 provision from the Sentencing Guidelines that is applicable to  
10:32AM 19 the plea agreement. The plea agreement doesn't operate  
10:32AM 20 separate and apart from 5K1.1.

10:32AM 21 MR. CONNORS: That may very well be true at the  
10:32AM 22 time of sentencing, but now to bolster that issue with another  
10:32AM 23 document that is clearly hearsay, it would be an improper  
10:32AM 24 method of rehabilitating the witness.

10:32AM 25 THE COURT: I'll take judicial notice that this is

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10:32AM 2 the Sentencing Guidelines given the cross. I agree with Mr.  
10:32AM 3 Tripi the suggestion has been that the government is coming up  
10:32AM 4 with the substantial assistance and I think it's important for  
10:32AM 5 government to have an opportunity to elicit the fact that this  
10:32AM 6 is a provision in the Sentencing Guidelines that allows the  
10:32AM 7 government to enter into these kinds of agreements, and then if  
10:32AM 8 appropriate, make a motion.

10:32AM 9 MR. CONNORS: To require substantial assistance.

10:33AM 10 THE COURT: To require substantial assistance  
10:33AM 11 before a motion for 5K1.1.

10:33AM 12 MR. CONNORS: I -- I think giving the stamp of  
10:33AM 13 approval of the section of the Guidelines or any section of the  
10:33AM 14 law would be an improper way of bolstering their  
10:33AM 15 rehabilitation. I respectfully object.

10:33AM 16 THE COURT: Okay. Defendants' counsels'  
10:33AM 17 objections are noted for the record.

10:33AM 18 MR. EASTON: Join.

10:33AM 19 THE COURT: Mr. Covert, I assume you join.

10:33AM 20 MR. COVERT: Sure.

10:33AM 21 MR. CONNORS: And on the peacemaker issue.

10:33AM 22 THE COURT: So, going back to the  
10:33AM 23 cross-examination on the peacemaker issue, drug dealing issue,  
10:33AM 24 and then his relationship with Pirk, Enix, the one-percent  
10:33AM 25 notion.

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10:33AM 2 MR. CONNORS: Let me speak to the peacemaker and  
10:33AM 3 others can speak to the others as well. As I recall the  
10:33AM 4 testimony of Haley, he mentioned Tim as a peacemaker in the  
10:33AM 5 context of either meetings with Mr. Pirk or it was in a  
10:34AM 6 discrete context about an interaction between people. That is  
10:34AM 7 what he said and there is no evidence to the contrary with  
10:34AM 8 respect to that, that Tim was anything other than a peacemaker.

10:34AM 9 All of the witnesses have said that with regard to  
10:34AM 10 the South Buffalo confrontation and with regard to the post,  
10:34AM 11 the South Buffalo confrontation issues. So that fact that is  
10:34AM 12 in the record right now does not open him up to go back and  
10:34AM 13 cross-examine him on all of the other issues that Mr. Tripi  
10:34AM 14 suggested are permissible by virtue if it's a disappointment.  
10:34AM 15 I don't think it's a disappointment. I think it's consistent  
10:34AM 16 with what the other witnesses have said. The scope of allowing  
10:34AM 17 this broad swath of cross-examination of this witness is not  
10:34AM 18 justified by the simple statement on his direct that he  
10:34AM 19 accurately identified Tim's role as a peacemaker in one or two  
10:34AM 20 discrete events.

10:35AM 21 MR. TRIPI: To be specific, the discrete event was  
10:35AM 22 when Mr. Pirk was talking about whacking Special Ed and Caruso,  
10:35AM 23 and he volunteered it as a peacemaker and Mr. Grable went back  
10:35AM 24 to it again. And so that is totally contradictory from the May  
10:35AM 25 of 2016 interview and every time he was interviewed since by



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10:35AM 2 omission and direct statements, that Enix was behind the  
10:35AM 3 murders, along with Pirk and Green that Jenkins committed.

10:35AM 4 So that discrete situation for him to throw  
10:35AM 5 "peacemaker" out there here in court is inconsistent with  
10:35AM 6 everything he ever said to the government on these topics prior  
10:35AM 7 to obtaining his plea agreement, which was essentially the last  
10:35AM 8 day we spoke to him before briefly meeting him Sunday and then  
10:35AM 9 putting him on the stand on Monday.

10:35AM 10 So that was a total surprise and the Court is  
10:36AM 11 permitted to rely upon the surprise of the government when you  
10:36AM 12 hear the term "peacemaker" uttered by a witness about a key  
10:36AM 13 conversation, and the government doesn't get to appeal. Our  
10:36AM 14 option is to confront him right now and that is what I'm asking  
10:36AM 15 to do.

10:36AM 16 MR. CONNORS: Well, I think, your Honor, just to  
10:36AM 17 respond, if there was contained in a 302 or in a statement that  
10:36AM 18 Haley had previously said that Tim was not a peacemaker in the  
10:36AM 19 discrete context with reference to Mr. Pirk, if there was a  
10:36AM 20 302, Tim wanted him to be whacked, too, then you might have an  
10:36AM 21 argument to permit that type of impeachment.

10:36AM 22 Now, I don't know if Joe anticipates doing this.  
10:37AM 23 We all know this guy doesn't know anything about the murders or  
10:37AM 24 how they happened. He names Emmett Green and Pirk and Tim. He  
10:37AM 25 is all over the line. That would be serious grounds for error

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10:37AM 2 or mistrial.

10:37AM 3 THE COURT: You're not suggesting to do that.

10:37AM 4 MR. TRIPI: To do what?

10:37AM 5 THE COURT: Lead. How you -- what the context  
10:37AM 6 that it happened.

10:37AM 7 MR. TRIPI: That was context. I'm not bringing  
10:37AM 8 out his opinion that Pirk, Enix and Green were behind the  
10:37AM 9 murders. I'm not going to have him testify to that. I'm going  
10:37AM 10 to cross-examine him on May 16th, 2016, you were interviewed.  
10:37AM 11 You never described Tim Enix as a peacemaker at any point in  
10:37AM 12 that interview with Agent Brown, correct? Correct. And you  
10:37AM 13 never discussed with the government when you discussed the  
10:37AM 14 conversation about Pirk whacking Filly. You never mentioned  
10:38AM 15 peacemaker, correct? But crossing him on those foundations,  
10:38AM 16 I'm allowed to do that.

10:38AM 17 MR. CONNORS: The evidence has to establish that  
10:38AM 18 he was asked that question about a role or he was asked about  
10:38AM 19 that role, and therefore, it becomes then inconsistent. If he  
10:38AM 20 was never asked in the video, he doesn't mention Tim Enix.

10:38AM 21 MR. TRIPI: Doesn't have to be an inconsistent  
10:38AM 22 statement to impeach him. He is asked a million questions and  
10:38AM 23 never describes Tim Enix as coming as peacemaker when Pirk is  
10:38AM 24 mentioning whacking. That is pretty damned good evidence.

10:42AM 25 THE COURT: All right. What about the drug

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10:42AM 2 dealing proposal, the fact he was aware of the drug dealing?

10:42AM 3 MR. GRABLE: Judge, we make the same objection.  
10:42AM 4 There is not a foundation to establish this is a prior  
10:42AM 5 inconsistency at the present time statement.

10:42AM 6 THE COURT: Or just that he is a hostile witness  
10:42AM 7 on that issue. I mean, he certainly -- he smoked marijuana,  
10:42AM 8 but he seems to suggest that there was this aversion to real  
10:42AM 9 bad drug dealers and that is inconsistent with what he pled  
10:42AM 10 guilty to.

10:42AM 11 MR. GRABLE: He admitted on cross with me  
10:42AM 12 yesterday afternoon he was dealing pills with various Kingsmen,  
10:42AM 13 so he came clean on that with cross.

10:42AM 14 THE COURT: And the one-percent, his relationship  
10:42AM 15 with Pirk and Enix.

10:42AM 16 MR. GRABLE: Refresh my memory.

10:42AM 17 THE COURT: The Kingsmen weren't a one-percent  
10:43AM 18 club.

10:43AM 19 MR. GRABLE: Again, I don't think he was  
10:43AM 20 inconsistent. My recollection is the same as the Court. We  
10:43AM 21 weren't in name, but we were in function.

10:43AM 22 MR. TRIPI: His testimony on cross with Mr.  
10:43AM 23 Easton, he talked about coming back with Mr. Pirk, but he  
10:43AM 24 wouldn't join a criminal organization.

10:43AM 25 MR. EASTON: Can I be heard on that?

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10:43AM 2 THE COURT: Sure.

10:43AM 3 MR. EASTON: We questioned him further on whether  
10:43AM 4 the Kingsmen were a one-percent club and I pushed him as far as  
10:43AM 5 I could and he ultimately said, although the Kingsmen were  
10:43AM 6 adopting one-percent tactics of a one-percent club, but were  
10:43AM 7 not a one-percent club. That is absolutely consistent with  
10:43AM 8 what he maintained in all of the 302s. And I direct the Court  
10:43AM 9 to 3589.6.

10:43AM 10 THE COURT: I have all of the exhibits.

10:43AM 11 MR. EASTON: I have an extra for the Court. Page  
10:43AM 12 17, this is consistent with all of this, over 60 pages of 302s.  
10:44AM 13 AUSA Tripi showed Haley a copy of a Facebook post that he  
10:44AM 14 posted on July 21st, 2014. Haley said he was talking up in the  
10:44AM 15 post, but the KMC was not a one-percent club. Haley said a  
10:44AM 16 one-percent club is more violent and more involved in criminal  
10:44AM 17 activity than a non-one-percent. Consistent with that, in  
10:44AM 18 another 302, he described the division in the KMC between those  
10:44AM 19 people that wanted to remain under Spry to be a non-one-percent  
10:44AM 20 club and those in the middle that wanted to adopt a one-percent  
10:44AM 21 sort of mentality but not be a one-percent club. And those  
10:44AM 22 that were fully in the one-percent club that Haley indicated  
10:44AM 23 were Special Ed, Caruso and one other person, but clearly not  
10:44AM 24 Pirk and himself. So he has been absolutely consistent on that  
10:45AM 25 point throughout his testimony, and to allow the government to

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10:45AM 2 impeach him now on that point is inconsistent. It's not that  
10:45AM 3 has always been his position. I pushed him as far as I could.  
10:45AM 4 He maintained his consistent position that it was not a  
10:45AM 5 one-percent club, and I think he would concede they are not a  
10:45AM 6 one-percent club. They're not affiliated with a one-percent  
10:45AM 7 club. They made extra efforts to extenuate to independent and  
10:45AM 8 non-affiliation. And I think that the government is not  
10:45AM 9 allowed to impeach them or attack them as he is inconsistent on  
10:45AM 10 the point on one thing. He was inconsistent and that is the  
10:45AM 11 one-percent.

10:45AM 12 MR. TRIPI: Accept he pleads guilty before your  
10:45AM 13 Honor after all of that and he acknowledged in the Facebook  
10:45AM 14 post, he described the Kingsmen as a collection of gangsters  
10:45AM 15 and tough guys. Some of them made the reputation dealing  
10:45AM 16 cocaine and others risked their lives. That is what -- exactly  
10:45AM 17 what I'm going to cross-examine him.

10:46AM 18 MR. EASTON: But he said the government can probe.  
10:46AM 19 That is in the proffers.

10:46AM 20 MR. TRIPI: Proffer is not the trial.

10:46AM 21 MR. EASTON: I'm not saying it is.

10:46AM 22 THE COURT: I'm done. This is what I'll allow the  
10:46AM 23 government to do. I agree with you, he is hostile when it  
10:46AM 24 comes to his characterization of Mr. Enix. I'm looking at the  
10:46AM 25 notes from yesterday and he initially does not recall even that

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10:46AM 2 Mr. Enix is at this meeting with Mr. Pirk at the Lake County  
10:46AM 3 clubhouse, and when pressed as to what Mr. Enix was saying, he  
10:46AM 4 was saying that Mr. Enix was coming as a peacemaker and saying  
10:46AM 5 things like, "we just need to handle the board stuff." In  
10:46AM 6 other words, the Board of Directors of the Kingsmen. "We don't  
10:46AM 7 need to worry about what is going on with these guys in New  
10:46AM 8 York and the Nomads." He is saying these guys just want to  
10:46AM 9 deal dope and deal drugs and we are not going to have it. We  
10:46AM 10 don't have to pay attention to this. I accept Mr. Tripi's  
10:47AM 11 representation that is not consistent with what Mr. Haley --

10:47AM 12 MR. TRIPI: -- pled guilty to.

10:47AM 13 THE COURT: Not only pled guilty to, but what he  
10:47AM 14 represented in any meetings, and I already ruled yesterday that  
10:47AM 15 you could treat him as a hostile witness on this point. And  
10:47AM 16 you can treat him as a hostile witness on that point. You can  
10:47AM 17 also treat him as a hostile witness on his backtracking from  
10:47AM 18 the fact that the Kingsmen Motorcycle Club was involved in drug  
10:47AM 19 trafficking.

10:47AM 20 Again, he pled guilty to it. He admitted it under  
10:47AM 21 oath in front of me and he backtracked from that, as far as I'm  
10:47AM 22 concerned, on the witness stand. You cannot treat him as a  
10:47AM 23 hostile witness with respect to his characterization of the  
10:47AM 24 Kingsmen Motorcycle Club as a one-percent club. I thought he  
10:47AM 25 was -- based on what Mr. Easton just represented, he said in

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10:47AM 2 the 302s as well as what he said on the witness stand, he said  
10:47AM 3 they were in function but not in name.

10:47AM 4 MR. TRIPI: Can I just make two very quick points.  
10:47AM 5 That is the only point I was going to use as an inconsistent  
10:48AM 6 statement because he said they are not, but in a Facebook post,  
10:48AM 7 and it's in his indictment, December 6th, 2012, the indictment  
10:48AM 8 under which he pled guilty to, he described the Kingsmen Nomads  
10:48AM 9 as, quote, "an elite group of one-percenters within the club,"  
10:48AM 10 and then on July 21st, 2014, he said, he made the post where he  
10:48AM 11 said, we don't fly the one-percent logo only because it's a  
10:48AM 12 RICO predicate, not because any F'ing body says we can't," and  
10:48AM 13 then goes on to talk about drug dealing.

10:48AM 14 THE COURT: You can cross him on that. I'm saying  
10:48AM 15 you can't treat him as a hostile witness. You can  
10:48AM 16 cross-examine him. You can use that as an inconsistent  
10:48AM 17 statement, but I don't think you have to qualify somebody as  
10:48AM 18 hostile. Maybe you do. I don't see you have to qualify  
10:48AM 19 somebody as a hostile witness on a particular subject matter to  
10:49AM 20 be able to impeach them on the subject matter.

10:49AM 21 MR. TRIPI: Yes, your Honor.

10:49AM 22 THE COURT: To the extent you do, you can  
10:49AM 23 cross-examine him on the inconsistency of the present-time  
10:49AM 24 statements.

10:49AM 25 MR. TRIPI: No leading.

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10:49AM 2 THE COURT: Yes.

10:49AM 3 MR. GRABLE: Two points of clarification. Can we  
10:49AM 4 have an instruction that the impeached information doesn't fall  
10:49AM 5 under 801(D)(1)(a)?

10:49AM 6 MR. TRIPI: I object to that. To the extent I  
10:49AM 7 offer inconsistent statements, that would be fine. To the  
10:49AM 8 extent I'm cross-examining him on areas that is substantive  
10:49AM 9 evidence, I'm going to be arguing to the jury, don't believe  
10:49AM 10 Haley on these areas, believe him on these areas, and it's  
10:49AM 11 going to be substantive evidence.

10:49AM 12 THE COURT: But the inconsistent statement that  
10:49AM 13 you're using, well, an inconsistent statement would be coming  
10:49AM 14 in as substantive evidence.

10:49AM 15 MR. GRABLE: Under 801(D)(1)(a), if it's under  
10:50AM 16 penalty of perjury.

10:50AM 17 THE COURT: It was, though, if he said that at the  
10:50AM 18 plea hearing.

10:50AM 19 MR. TRIPI: That's true.

10:50AM 20 MR. GRABLE: I don't know.

10:50AM 21 THE COURT: You might need to have the ability to  
10:50AM 22 cross-examine.

10:50AM 23 MR. TRIPI: Just under oath. It references  
10:50AM 24 deposition as well. What he said at the plea hearing, to the  
10:50AM 25 extent it's inconsistent with what he is saying now, comes in



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10:50AM 2 substantively.

10:50AM 3 MR. GRABLE: I don't think there is anything at  
10:50AM 4 the plea hearing about "peacemaker."

10:50AM 5 THE COURT: I agree with you. I think the  
10:50AM 6 "peacemaker" aspect of it is not coming in for truth.

10:50AM 7 MR. GRABLE: We'll request an instruction on that  
10:50AM 8 one. And also, I may have misheard. I thought I heard  
10:50AM 9 reference in Mr. Tripi's proffer to opinions that Mr. Haley  
10:50AM 10 made about who is responsible for homicides. I don't think Mr.  
10:51AM 11 Tripi intends to get too into that.

10:51AM 12 THE COURT: Mr. Connors is saying that would be  
10:51AM 13 improper, and I said to Mr. Tripi, "You're not trying to get  
10:51AM 14 into that." And he said, "no."

10:51AM 15 MR. GRABLE: In one of the last areas of cross, I  
10:51AM 16 do intend to ask him about the fact that just generally, the  
10:51AM 17 fact that there were rumors swirling around and the fact that  
10:51AM 18 he put the rumor out that Emmett Green was out there.

10:51AM 19 MR. TRIPI: That is a shield and sword.

10:51AM 20 THE COURT: If you do that, then he is entitled to  
10:51AM 21 say that he put it out with Pirk and Enix.

10:51AM 22 MR. GRABLE: I was going to elicit from him it was  
10:51AM 23 a false rumor.

10:51AM 24 MR. TRIPI: It's his firmly held belief.

10:51AM 25 THE COURT: You go down that road, you're

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10:51AM 2 completely opening the door to his opinions about Mr. Pirk and  
10:51AM 3 Mr. Enix. You can get into the fact there were rumors  
10:51AM 4 circulating. I'll even allow you to ask him whether or not he  
10:52AM 5 was putting out false rumors. But if you get specifically --  
10:52AM 6 if you get into the specifics of it, then you're opening the  
10:52AM 7 door to the specifics of it, including what he was saying about  
10:52AM 8 Mr. Pirk and Mr. Enix.

10:52AM 9 MR. GRABLE: Okay. Understood.

10:52AM 10 MR. COVERT: I want to confirm, yesterday when we  
10:52AM 11 got into the racially charged Facebook post, the Court advised  
10:52AM 12 how to handle it and not open any doors. I want to confirm no  
10:52AM 13 doors were opened by what I did yesterday.

10:52AM 14 THE COURT: You're not going to get back into the  
10:52AM 15 racial issue.

10:52AM 16 MR. TRIPI: I'm sorry, I missed the first part.

10:52AM 17 THE COURT: The racial issue, are you going to try  
10:52AM 18 to redirect on that?

10:52AM 19 MR. TRIPI: No. What he said, he is a jerk for  
10:52AM 20 saying it. I'm not going to rehabilitate that.

10:52AM 21 MR. COVERT: Thank you.

10:52AM 22 THE COURT: Anything else? All right. Let's get  
10:52AM 23 Mr. Haley back in here.

10:54AM 24 MR. CONNORS: And I take it the objections are  
10:54AM 25 preserved.

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10:54AM 2 THE COURT: Anything we just discussed on the  
10:54AM 3 record. We don't have to interrupt the testimony. Your  
10:54AM 4 objections are preserved.

10:54AM 5 MR. CONNORS: Thank you.

10:54AM 6 THE COURT: Are you going to get into the plea  
10:54AM 7 agreement?

10:54AM 8 MR. TRIPI: I'm going to cross-examine him on the  
10:55AM 9 things he admitted. I might use it and not admit it.

10:55AM 10 THE COURT: Come on in, Mr. Haley.

10:55AM 11 (Witnesses retakes the witness stand.)

10:55AM 12 (Whereupon, the jury is escorted into the  
10:55AM 13 courtroom.)

10:55AM 14 THE COURT: All right, folks. Thank you for your  
10:55AM 15 patience. Have a seat everybody. Mr. Grable, please continue  
10:55AM 16 with your cross whenever you're ready.

10:56AM 17 MR. GRABLE: Thank you.

10:56AM 18 CONTINUING CROSS-EXAMINATION BY MR. GRABLE:

10:56AM 19 Q. Mr. Haley, when we broke, I was asking you about the  
10:56AM 20 nickname "Snake." Do you remember that?

10:56AM 21 A. Yes.

10:56AM 22 Q. And yesterday during your cross-examination by Mr.  
10:56AM 23 Easton, you told us that the nickname "Snake" hadn't been used  
10:56AM 24 to describe you in 20 years, correct?

10:56AM 25 A. Yes.

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10:56AM 2 Q. And isn't it true that if you asked any Kingsmen in  
10:56AM 3 2017 at the time of your arrest, they would say you are a  
10:56AM 4 snake?

10:56AM 5 A. No.

10:56AM 6 Q. You disagree with that notion?

10:56AM 7 A. I do.

10:56AM 8 MR. GRABLE: Your Honor, I would offer a snippet  
10:56AM 9 from 3589.3.

10:56AM 10 THE COURT: Any objection?

10:56AM 11 MR. TRIPI: No objection to the portion that was  
10:56AM 12 played.

10:56AM 13 MR. GRABLE: I'll play the beginning point to  
10:56AM 14 allow the witness to be oriented without audio.

10:56AM 15 THE COURT: And the exhibit number is?

10:56AM 16 MR. GRABLE: 3589.3 is a DVD.

10:57AM 17 THE COURT: Thank you.

10:57AM 18 Q. Mr. Haley, we're going to show you the beginning  
10:57AM 19 portion of the DVD without audio and I'll ask you some  
10:57AM 20 questions about it.

10:57AM 21 That's good. Thank you.

10:57AM 22 (Whereupon, the video is played.)

10:57AM 23 This is what we are looking at from 3589.3, is  
10:57AM 24 video footage when you were arrested in October of 2017,  
10:57AM 25 correct.

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10:57AM 2 A. Yes.

10:57AM 3 Q. And at that time, you were taken into custody at an FBI  
10:57AM 4 office in Florida, correct?

10:57AM 5 A. Yes.

10:57AM 6 Q. And the person on the left, the bottom of our screen,  
10:57AM 7 is Agent Brown, correct?

10:57AM 8 A. Yes.

10:57AM 9 Q. And then the officer up on the right at the bottom of  
10:57AM 10 the screen was the officer who helped process you before your  
10:57AM 11 arraignment in court, correct?

10:57AM 12 A. Yes.

10:57AM 13 Q. And the person at the top of the screen is Tim Haley?

10:58AM 14 A. Yes.

10:58AM 15 Q. And I'll ask you from 3589.3, the portion beginning  
10:58AM 16 with audio at 38:05.

10:58AM 17 Thank you. In 2017, when you talked to the FBI, you  
10:58AM 18 told them that if they were to ask current Kingsmen in 2017  
10:58AM 19 about your nickname and whether you're a snake, you told the  
10:58AM 20 FBI that they would, in fact, agree with that notion, correct?

10:58AM 21 A. Well, I was speaking about two different terminologies.  
10:58AM 22 My nickname that I used early in the days when I was fighting,  
10:58AM 23 and hadn't used it in 20 years, and someone using a derogatory  
10:59AM 24 nickname. You don't see in the post or Facebook posts saying  
10:59AM 25 he is a snake.

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10:59AM 2 Q. This is an hour plus of video footage in 2589.3, and  
10:59AM 3 not once in the time you were with the FBI on the day of your  
10:59AM 4 arrest did you make any reference to kickboxing, did you?

10:59AM 5 A. No.

10:59AM 6 Q. The only thing you told the FBI about snake on the day  
10:59AM 7 of your arrest is current Kingsmen in 2017 would advise law  
10:59AM 8 enforcement that you're a snake because you're dishonest,  
10:59AM 9 correct?

10:59AM 10 MR. TRIPI: Objection, video speaks for itself.

10:59AM 11 THE COURT: Overruled.

10:59AM 12 Q. Isn't that a fact from your video, sir?

10:59AM 13 A. No. It wasn't dishonest. True, I was talking about it  
10:59AM 14 was the fact I was always an antagonist.

10:59AM 15 Q. And so you would disagree with the notion that what we  
10:59AM 16 just saw in the video consists of you describing to the FBI  
10:59AM 17 that current Kingsmen in 2017 would describe you as a snake  
11:00AM 18 because you're dishonest, true?

11:00AM 19 A. That dishonest, true, was my intent of the word that  
11:00AM 20 they would describe me.

11:00AM 21 Q. So you disagree?

11:00AM 22 A. I disagree.

11:00AM 23 Q. The reality, the many occasions that you were thrown  
11:00AM 24 out of the Kingsmen Motorcycle Club is because leadership  
11:00AM 25 within the club on those occasions informed you that you were a

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11:00AM 2 dishonest bragger, correct?

11:00AM 3 A. No, I was never accused of being dishonest.

11:00AM 4 Q. Near the end of your direct testimony with Mr. Tripi,  
11:00AM 5 he asked you some questions about discussions you claimed to  
11:00AM 6 have had with Mr. Pirk in between the August 3rd incident at  
11:00AM 7 the South Buffalo clubhouse and the time of the homicides on  
11:00AM 8 the 5th or 6th of September 2014. You remember him asking you  
11:00AM 9 those questions?

11:01AM 10 A. Yes.

11:01AM 11 Q. And each and every time that you asked -- well, let me  
11:01AM 12 first start by saying, this window of time we're talking about  
11:01AM 13 and everything beyond that window of time, there were all sorts  
11:01AM 14 of rumors swirling around. Now, I'm talking about the time  
11:01AM 15 after the 6th of September. There were all sorts of rumors  
11:01AM 16 swirling around for a year or more about who might or might not  
11:01AM 17 be responsible for the homicides, correct?

11:01AM 18 A. Yes.

11:01AM 19 Q. And, in fact, you, from time to time, participated in  
11:01AM 20 discussion of various rumors that were floating around the  
11:01AM 21 Kingsman Motorcycle Club about who might be involved, correct?

11:01AM 22 A. Yes.

11:01AM 23 Q. And the reality is you weren't present, so you don't  
11:01AM 24 know who was involved, correct?

11:01AM 25 A. Correct.

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11:01AM 2 Q. Now, when you asked David Pirk, David Pirk told you --  
11:01AM 3 when you asked Mr. Pirk whether he or the club were involved,  
11:01AM 4 he told you absolutely not, correct?

11:01AM 5 A. Multiple times.

11:01AM 6 Q. And at the very end of your direct testimony, the  
11:02AM 7 government asked you yesterday about discussions that you claim  
11:02AM 8 you had with Mr. Enix about issues involving Mr. Jenkins in  
11:02AM 9 Tennessee. Do you remember that testimony?

11:02AM 10 A. Yes.

11:02AM 11 Q. And now, when you spoke to the FBI in November of 2017,  
11:02AM 12 you told them quite candidly that you weren't sure whether Mr.  
11:02AM 13 Enix had had those discussions with you, correct?

11:02AM 14 A. I don't recall.

11:02AM 15 Q. Let me show you something and see if I can refresh your  
11:02AM 16 memory, 3589.7 at page 24. I'll ask you to read yourself, if  
11:02AM 17 you would, the third paragraph from the bottom and let me know  
11:02AM 18 when you finished it.

11:03AM 19 A. Just that paragraph there?

11:03AM 20 Q. You can read as much as you want, but I'll ask you  
11:03AM 21 about the paragraph I pointed you to.

11:03AM 22 A. Yes.

11:03AM 23 Q. And I'll ask you some questions about it. When you  
11:03AM 24 spoke to the FBI, you were honest on that occasion in November  
11:03AM 25 of 2017 when you told the FBI that although you thought that



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11:03AM 2 Mr. Enix might have been the one that talked to you about  
11:03AM 3 Tennessee, you weren't sure about that. Do you remember that?

11:03AM 4 A. Yes.

11:03AM 5 Q. And what I just showed you refreshes your memory that,  
11:03AM 6 in fact, you're not sure about that discussion, correct?

11:03AM 7 A. That is it, stating that I'm not sure that David had  
11:03AM 8 not told me about Tennessee, but that Blaze had.

11:03AM 9 Q. You're saying you told the FBI that you weren't sure  
11:03AM 10 that Blaze talked to you about Tennessee, correct?

11:03AM 11 A. Let me read it. I thought it said that I wasn't sure  
11:04AM 12 what Pirk said, but Blaze told me about Tennessee.

11:04AM 13 Q. Same paragraph, right here.

11:04AM 14 THE COURT: Wait, wait, wait. Hey, just stop, Mr.  
11:04AM 15 Grable. Mr. Haley, you can't have a discussion like that that  
11:04AM 16 is not on the record, okay?

11:04AM 17 MR. GRABLE: Correct.

11:04AM 18 Q. Mr. Haley, this isn't in evidence. We're using it to  
11:04AM 19 refresh your memory. Read this whole paragraph, the one you  
11:04AM 20 just read. And now I put the question to you, does this  
11:04AM 21 refresh your memory when you talked to the FBI in November of  
11:04AM 22 2017 about a conversation with Blaze in Tennessee you told the  
11:04AM 23 FBI you weren't sure?

11:04AM 24 MR. TRIPI: Objection to saying what the document  
11:04AM 25 says as part of the question.

1 T. HALEY - RDX BY MR. TRIPI

11:04AM 2 MR. GRABLE: I'll rephrase.

11:04AM 3 MR. TRIPI: Objection.

11:04AM 4 THE COURT: Sustained.

11:04AM 5 Q. Does it refresh your memory that you were honest in  
11:04AM 6 telling the FBI you weren't sure?

11:04AM 7 A. Yes.

11:05AM 8 MR. GRABLE: Thank you. I don't have any more  
11:05AM 9 questions.

11:05AM 10 THE COURT: Maybe you do. Just one second.

11:05AM 11 THE WITNESS: I'm not done?

11:05AM 12 THE COURT: No, you're not done. Mr. Tripi is  
11:05AM 13 going to do redirect. Usually doesn't take as long as the  
11:05AM 14 initial direct.

11:05AM 15 THE WITNESS: Thank God.

11:05AM 16 MR. TRIPI: Just take a moment to get situated,  
11:05AM 17 your Honor.

11:05AM 18 THE COURT: Sure.

11:05AM 19 MR. TRIPI: Thank you.

11:06AM 20 REDIRECT EXAMINATION BY MR. TRIPI:

11:06AM 21 Q. Mr. Haley, I have some questions for you. Yesterday  
11:06AM 22 during cross-examination by Mr. Grable, you were asked some  
11:06AM 23 questions about the Kingsmen in New York versus the Kingsmen in  
11:06AM 24 Florida. Do you remember a lot of questions coming phrased  
11:06AM 25 that way New York Kingsmen, Florida Kingsmen?

1 T. HALEY - RDX BY MR. TRIPI

11:06AM 2 A. Yes.

11:06AM 3 Q. And is the Kingsmen one club or many clubs?

11:06AM 4 A. One club.

11:06AM 5 Q. Nationwide?

11:06AM 6 A. Nationwide.

11:06AM 7 Q. Is that why there are mandatory meetings in Florida and  
11:07AM 8 mandatory meetings in New York?

11:07AM 9 A. Yes.

11:07AM 10 Q. Is that why it's in the bylaws?

11:07AM 11 A. Yes.

11:07AM 12 Q. Is that why when you look at -- this is TE 5157 in  
11:07AM 13 evidence. Is that why you refer to the Kingsmen as one kingdom  
11:07AM 14 united is in the Facebook that Mr. Grable showed you?

11:07AM 15 A. Yes.

11:07AM 16 Q. And is that why you said, "We must stand together  
11:07AM 17 against all of our enemies as one"?

11:07AM 18 A. Yes, sir.

11:07AM 19 Q. And on November 2nd, 2014, I'm going to orient you with  
11:08AM 20 the message for a moment. But you were asked questions about  
11:08AM 21 violence in New York, right? In 2013, you recall the  
11:08AM 22 questions, Springville not on the message yet?

11:08AM 23 A. Yes.

11:08AM 24 Q. Was the violence in New York in 2013 due to the fact  
11:08AM 25 that the only chapter in the Kingsmen that was loyal to Skeet

1 T. HALEY - RDX BY MR. TRIPI

11:08AM 2 Spry was in Springville, New York?

11:08AM 3 A. Yes.

11:08AM 4 MR. GRABLE: Object to the leading.

11:08AM 5 THE COURT: Sustained.

11:08AM 6 Q. What was the reason that the violence occurred in New  
11:08AM 7 York in 2013?

11:08AM 8 A. Because the Springville chapter continued to exist and  
11:08AM 9 continued to rob our clubhouses and we were fighting with them.

11:08AM 10 Q. And who were they loyal to?

11:08AM 11 A. They were loyal to Skeet.

11:08AM 12 Q. Every other chapter in the Kingsmen, Florida,  
11:08AM 13 Pennsylvania, Tennessee as it is forming, and New York, were  
11:08AM 14 they loyal to Pirk at that point?

11:08AM 15 A. Yes.

11:08AM 16 MR. GRABLE: Objection to the leading.

11:09AM 17 THE COURT: Overruled. Go ahead.

11:09AM 18 A. They were under David Pirk.

11:09AM 19 Q. Based on your understanding of the Kingsmen Nation, had  
11:09AM 20 the chapter in Sumter County, Florida been the chapter that was  
11:09AM 21 the holdout, would you have anticipated violence to occur in  
11:09AM 22 that scenario?

11:09AM 23 MR. GRABLE: Objection to the leading and  
11:09AM 24 speculation.

11:09AM 25 THE COURT: Overruled.

1 T. HALEY - RDX BY MR. TRIPI

11:09AM 2 A. Meaning had they been loyal to Skeet?

11:09AM 3 Q. Yes. Had some chapter been loyal to Skeet, would you  
11:09AM 4 have targeted them?

11:09AM 5 A. We would have closed them down.

11:09AM 6 Q. My word was "targeting." Same thing?

11:09AM 7 A. Yes.

11:09AM 8 Q. So this message in November of 2014, that is a couple  
11:09AM 9 of months after the murders, correct?

11:09AM 10 A. Yes.

11:09AM 11 Q. And you see the sentence here, "he is still in war, we  
11:10AM 12 ain't taking no shit mode"?

11:10AM 13 A. Yes.

11:10AM 14 Q. Who were you talking about there?

11:10AM 15 A. Pirk.

11:10AM 16 Q. And "war" is a term that comes up in biker parlay  
11:10AM 17 between motorcycle clubs, correct?

11:10AM 18 A. Yes.

11:10AM 19 Q. Can you explain that term?

11:10AM 20 A. It means we have escalated from the sit-down parlay  
11:10AM 21 conversation phase and we're now physically involved in  
11:10AM 22 confronting each other when we encounter each other.

11:10AM 23 Q. And you used war in conjunction with a reference to  
11:10AM 24 David Pirk?

11:10AM 25 A. Yes.

1 T. HALEY - RDX BY MR. TRIPI

11:10AM 2 Q. And had David Pirk been in war mode from the time he  
11:10AM 3 said "I'm done talking to these guys in Springville," up  
11:10AM 4 through the date of that message in November of 2014?

11:10AM 5 A. Yes.

11:11AM 6 Q. Now, you were cross-examined a bit about your plea  
11:11AM 7 agreement. Do you recall that?

11:11AM 8 A. Yes.

11:11AM 9 Q. And I believe it was -- give me a moment. I believe it  
11:11AM 10 was Mr. Grable most recently, I and perhaps others asked you  
11:11AM 11 about substantial assistance, correct?

11:11AM 12 A. Yes.

11:11AM 13 Q. Now, your plea agreement has a number of paragraphs,  
11:11AM 14 true?

11:11AM 15 A. True.

11:11AM 16 Q. And isn't it accurate that in paragraph 20 --

11:11AM 17 MR. TRIPI: Judge, I'm going to lead in lieu of  
11:11AM 18 putting the whole document in.

11:11AM 19 Q. In paragraph 20, it says, "The defendant will cooperate  
11:11AM 20 with the government by providing complete and truthful  
11:11AM 21 information regarding the defendant's knowledge of any and all  
11:11AM 22 criminal activity, whether undertaken by the defendant or  
11:11AM 23 others, in any way involving or related to the Kingsmen  
11:11AM 24 Motorcycle Club, racketeering activity, assault, murder,  
11:12AM 25 robbery, and firearm use, possession and discharge. That the

1 T. HALEY - RDX BY MR. TRIPI

11:12AM 2 defendant's cooperation shall also include submitting to  
11:12AM 3 interviews by government attorneys and agents as well as  
11:12AM 4 testifying truthfully and completely before grand juries and  
11:12AM 5 such other proceedings as the government shall deem necessary,  
11:12AM 6 including but not limited to, pretrial hearings, trials,  
11:12AM 7 sentencing hearings and forfeiture proceedings." Is that a  
11:12AM 8 paragraph in your cooperation agreement?

11:12AM 9 A. Yes.

11:12AM 10 Q. And that paragraph doesn't say you must help convict  
11:12AM 11 David Pirk, does it?

11:12AM 12 A. No.

11:12AM 13 Q. It doesn't say you must help convict Timothy Enix, does  
11:12AM 14 it?

11:12AM 15 A. No.

11:12AM 16 Q. It doesn't say you must help convict Andre Jenkins,  
11:12AM 17 does it?

11:12AM 18 A. No.

11:12AM 19 Q. And you've been asked about this term "substantial  
11:12AM 20 assistance." Do you understand that substantial assistance is  
11:12AM 21 actually what the law requires regarding a downward departure  
11:13AM 22 motion? Do you have an understanding of that?

11:13AM 23 A. Yes.

11:13AM 24 Q. And your plea agreement specifically references that  
11:13AM 25 section of the law. It's called Guideline 5K1.1, correct?

1 T. HALEY - RDX BY MR. TRIPI

11:13AM 2 A. Yes.

11:13AM 3 Q. And you reviewed that in the course of coming to this  
11:13AM 4 plea agreement, correct?

11:13AM 5 A. And with the judge.

11:13AM 6 Q. That's correct. During your plea proceeding, it was  
11:13AM 7 explained to you, true?

11:13AM 8 A. Yes.

11:13AM 9 Q. So that is actually what the law requires, yes?

11:13AM 10 A. Yes.

11:13AM 11 Q. It's not a made up term from the government, is it?

11:13AM 12 A. No, no.

11:13AM 13 Q. And that law, 5K1.1, you've reviewed it and you've read  
11:13AM 14 it in getting ready for your plea, right?

11:13AM 15 A. Yes.

11:13AM 16 Q. It says upon motion of the government, stating the  
11:13AM 17 defendant has provided substantial assistance in the  
11:13AM 18 investigation or prosecution of another person who has  
11:13AM 19 committed an offense, the Court may depart from the Guidelines,  
11:13AM 20 correct?

11:13AM 21 A. Yes.

11:13AM 22 Q. The appropriate reduction shall be determined by the  
11:13AM 23 Court for reasons stated that may include, but are not limited  
11:14AM 24 to, consideration of the following, correct?

11:14AM 25 A. Yes.



1 T. HALEY - RDX BY MR. TRIPI

11:14AM 2 Q. And subparagraph 1, the Court's evaluation of the  
11:14AM 3 significance and usefulness of the defendant's assistance.  
11:14AM 4 Taking into consideration the government's evaluation of the  
11:14AM 5 assistance rendered, correct?

11:14AM 6 A. Yes.

11:14AM 7 Q. Two, the truthfulness, completeness and reliability of  
11:14AM 8 any information or testimony provided by the defendant. And  
11:14AM 9 you're a defendant, correct?

11:14AM 10 A. Yes.

11:14AM 11 Q. And the nature and extent of the defendant's  
11:14AM 12 cooperation?

11:14AM 13 A. Yes.

11:14AM 14 Q. And any danger or risk of danger of the defendant's  
11:14AM 15 family from assault on the defendant's family?

11:14AM 16 A. Yes.

11:14AM 17 Q. And I'll ask you, is that referenced in the plea  
11:14AM 18 agreement?

11:14AM 19 A. Yes.

11:14AM 20 Q. No matter what is in the plea agreement, ultimately,  
11:14AM 21 it's up to Judge Welford, correct?

11:15AM 22 A. Yes.

11:15AM 23 Q. And as you sit here testifying, coming real, you've  
11:15AM 24 been a Kingsman; your family has been Kingsmen. It's been a  
11:15AM 25 way of life, true?

1 T. HALEY - RDX BY MR. TRIPI

11:15AM 2 A. Yes.

11:15AM 3 Q. And are you breaking a biker code by coming here?

11:15AM 4 A. Sure, yes.

11:15AM 5 Q. Is that difficult for you to swallow?

11:15AM 6 A. Yes.

11:15AM 7 Q. You've known David Pirk for 40 years, correct?

11:15AM 8 A. Yes.

11:15AM 9 Q. Is it difficult sitting where you are?

11:15AM 10 A. Yes.

11:15AM 11 Q. You've got to know Tim Enix, true?

11:15AM 12 A. Yes.

11:15AM 13 Q. Is it difficult sitting here saying things about them?

11:15AM 14 A. Yes.

11:15AM 15 Q. You got to know Tim Enix's son, Matt, haven't you?

11:15AM 16 A. Yes.

11:15AM 17 Q. And the Lake County clubhouse and when Matt became the  
11:15AM 18 president there, you actually said, "Congratulations, Tank,  
11:15AM 19 well deserved," didn't you?

11:15AM 20 A. Yes.

11:15AM 21 Q. And his dad made him a president in that chapter,  
11:15AM 22 correct?

11:15AM 23 A. Yes.

11:15AM 24 Q. And on Facebook, you said to Matt, "Now can we stop  
11:15AM 25 smoking marijuana in the back and smoke it out in the bar like

1 T. HALEY - RDX BY MR. TRIPI

11:15AM 2 real men." You said that, didn't you?

11:15AM 3 A. I did.

11:15AM 4 Q. And he said, "Absolutely, brother," didn't he?

11:16AM 5 A. Yes.

11:16AM 6 Q. And that was this defendant's son?

11:16AM 7 A. Yes.

11:16AM 8 Q. Who he promoted, correct?

11:16AM 9 A. Yes.

11:16AM 10 Q. Was it hard for you to plead guilty and admit,  
11:16AM 11 essentially, that you were part of a RICO conspiracy from your  
11:16AM 12 family, Kingsmen's Motorcycle Club?

11:16AM 13 A. Hardest thing I've ever done.

11:16AM 14 Q. And I take it when your uncle started a weightlifting  
11:16AM 15 club in 1958 and joining the motorcycle club and forming the  
11:16AM 16 Kingsmen, you never thought it would get to where it got today,  
11:16AM 17 did you?

11:16AM 18 MR. COVERT: Objection.

11:16AM 19 THE COURT: Overruled.

11:16AM 20 A. No.

11:16AM 21 Q. You didn't think you would be standing in front of  
11:16AM 22 Judge Wolford and admitting there were drug dealers in the  
11:16AM 23 organization, did you?

11:16AM 24 A. No.

11:16AM 25 Q. Admitting that you sold drugs, distributed drugs?

1 T. HALEY - RDX BY MR. TRIPI

11:16AM 2 A. Yes.

11:16AM 3 Q. Marijuana?

11:16AM 4 A. Yes.

11:16AM 5 Q. Lortabs?

11:16AM 6 A. Yes.

11:17AM 7 Q. You became part of that, didn't you?

11:17AM 8 A. Yes.

11:17AM 9 Q. And you knew it was going on all around you, didn't  
11:17AM 10 you?

11:17AM 11 A. Yes.

11:17AM 12 Q. Happening in Florida?

11:17AM 13 A. Yes.

11:17AM 14 Q. Happening in Pennsylvania?

11:17AM 15 A. Yes.

11:17AM 16 Q. Happening in New York?

11:17AM 17 A. Yes.

11:17AM 18 Q. And ultimately, in that ride to Tennessee, from your  
11:17AM 19 message alone, a Kingsman from Tennessee distributed marijuana  
11:17AM 20 to you, correct?

11:17AM 21 A. Yes.

11:17AM 22 Q. And a Kingsman from Florida distributed Lortab to you,  
11:17AM 23 correct?

11:17AM 24 A. Yes.

11:17AM 25 Q. And Kingsmen from New York, Florida and Pennsylvania

1 T. HALEY - RDX BY MR. TRIPI

11:17AM 2 converged on Tennessee with guns, didn't they?

11:17AM 3 A. Yes.

11:17AM 4 Q. The Kingsmen wouldn't be a very good motorcycle club  
11:17AM 5 standing up to one-percenters without guns, would they?

11:17AM 6 A. It would be impossible.

11:17AM 7 Q. You need weapons, don't you?

11:17AM 8 A. Yes.

11:17AM 9 Q. Unless you want to be a riding club?

11:17AM 10 A. Correct.

11:17AM 11 Q. Riding clubs on a lower scale, those are guys that like  
11:17AM 12 to ride motorcycles, aren't they?

11:17AM 13 MR. COVERT: Object to the leading.

11:17AM 14 THE COURT: Sustained.

11:17AM 15 Q. Are riding clubs a lower scale?

11:18AM 16 MR. COVERT: Object to the leading.

11:18AM 17 THE COURT: It's --

11:18AM 18 MR. TRIPI: It's not leading.

11:18AM 19 THE COURT: It kind of is.

11:18AM 20 Q. What is a riding club?

11:18AM 21 A. A lower scale.

11:18AM 22 MR. COVERT: Object to Mr. Tripi putting words in  
11:18AM 23 his mouth.

11:18AM 24 MR. TRIPI: Let's be real. That is not funny.

11:18AM 25 Q. Now, riding clubs -- in your experience, the Knight

1 T. HALEY - RDX BY MR. TRIPI

11:18AM 2 Riders were a riding club?

11:18AM 3 A. A support club, there is a difference.

11:18AM 4 MR. COVERT: Objection.

11:18AM 5 THE COURT: Sustained.

11:18AM 6 Q. What is a riding club? Let's step back so we can get  
11:18AM 7 through this. What is a riding club?

11:18AM 8 A. A riding club is a patch on the back designating RC  
11:18AM 9 instead of MC.

11:18AM 10 Q. In your 40-year experience in the Kingsman Motorcycle  
11:18AM 11 Club, at various points in time, are riding clubs concerned  
11:18AM 12 with one-percenters as a club like the Kingsmen?

11:18AM 13 MR. COVERT: Object to the leading.

11:18AM 14 THE COURT: Overruled.

11:19AM 15 A. They are under one-percent clubs. They have to at some  
11:19AM 16 point be under one of those clubs.

11:19AM 17 Q. Now, certainly you testified yesterday when Mr. Easton  
11:19AM 18 was cross-examining you that when you talked to Pirk about  
11:19AM 19 coming back, one of the things that you said is you wouldn't  
11:19AM 20 join a criminal organization, correct?

11:19AM 21 A. Yes.

11:19AM 22 Q. But that is what you did, didn't you?

11:19AM 23 A. Yes.

11:19AM 24 Q. That is what the Kingsmen were?

11:19AM 25 A. That is what we had become.

1 T. HALEY - RDX BY MR. TRIPI

11:19AM 2 Q. You became a group that some guys paid their dues  
11:19AM 3 dealing coke?

11:20AM 4 A. Yes.

11:20AM 5 Q. You acknowledged that you're a collection of gangsters  
11:20AM 6 and tough guys, correct?

11:20AM 7 MR. GRABLE: Leading, your Honor.

11:20AM 8 THE COURT: Overruled.

11:20AM 9 A. Yes.

11:20AM 10 Q. And you posted things like that on Facebook, true?

11:20AM 11 A. Yes.

11:20AM 12 THE COURT: Are you asking for an instruction on  
11:20AM 13 that, Mr. Grable?

11:20AM 14 MR. GRABLE: Correct.

11:20AM 15 THE COURT: Ladies and gentlemen, this isn't  
11:20AM 16 coming in for truth. You can ask him a question, but the prior  
11:20AM 17 reference can't be.

11:20AM 18 Q. I think I did that before I mentioned the Facebook.  
11:20AM 19 The Kingsmen were a group of gangsters and tough guys, correct?

11:20AM 20 MR. GRABLE: Leading.

11:20AM 21 THE COURT: Overruled.

11:20AM 22 A. There were a group of guys.

11:20AM 23 Q. Yes or no?

11:21AM 24 MR. COVERT: Objection.

11:21AM 25 MR. TRIPI: I can control my witness.

1 T. HALEY - RDX BY MR. TRIPI

11:21AM 2 THE COURT: Overruled. You can recross him.

11:21AM 3 Q. Yes or no?

11:21AM 4 A. Yes.

11:21AM 5 Q. Included drug dealers?

11:21AM 6 A. Yes.

11:21AM 7 Q. Drug dealers in Florida like Shine?

11:21AM 8 A. I don't know if Shine was a drug dealer. I knew there  
11:21AM 9 were drug dealers in Florida.

11:21AM 10 Q. Who did you know dealt drugs in Florida? Vegas?

11:21AM 11 MR. GRABLE: Objection.

11:21AM 12 THE COURT: Overruled. I told him he can lead in  
11:21AM 13 the area. I'm allowing Mr. Tripi to lead with the drug dealing  
11:21AM 14 in the Kingsman Motorcycle Club.

11:21AM 15 A. The first one came to my mind is Tank.

11:21AM 16 Q. What did Tank sell?

11:21AM 17 A. Cocaine.

11:21AM 18 Q. Defendant Enix's son?

11:21AM 19 A. Yes.

11:21AM 20 MR. GRABLE: Objection, your Honor.

11:21AM 21 THE COURT: Overruled.

11:21AM 22 Q. And there are a whole bunch of others that use drugs?

11:21AM 23 A. Yes.

11:21AM 24 Q. In clubhouses?

11:21AM 25 A. Yes.



1 T. HALEY - RDX BY MR. TRIPI

11:21AM 2 Q. In Florida?

11:21AM 3 A. Yes.

11:21AM 4 Q. In clubhouses that these defendants have been in?

11:21AM 5 A. Yes.

11:21AM 6 Q. And that these defendants control?

11:22AM 7 A. Yes.

11:22AM 8 MR. GRABLE: Mr. Tripi is testifying.

11:22AM 9 THE COURT: Leading is okay. You do it all the  
11:22AM 10 time on cross, but I will sustain the objection about the fact  
11:22AM 11 that the defendants control the clubhouses. And ladies and  
11:22AM 12 gentlemen, you should disregard the last answer, and you're  
11:22AM 13 welcome, Mr. Tripi, to elicit not leading yeses on that area.

11:22AM 14 MR. TRIPI: Thank you, your Honor.

11:22AM 15 Q. Yesterday when you explained that Pirk wanted people  
11:22AM 16 that would stand up to the Outlaws in terms of people that  
11:22AM 17 would be brought to Tennessee, do you remember that testimony?

11:22AM 18 A. Yes.

11:22AM 19 Q. What did you mean by that?

11:22AM 20 A. That he wanted the group that he had previously  
11:22AM 21 described within the club, that of the collection of tough guys  
11:23AM 22 and stand-up guys, to make the trip to Tennessee.

11:23AM 23 Q. Was that collection of guys armed?

11:23AM 24 A. Yes.

11:23AM 25 Q. And you participated in that recruiting, correct?

1 T. HALEY - RDX BY MR. TRIPI

11:23AM 2 A. Yes.

11:23AM 3 Q. And did you help recruit guys that you believed would  
11:23AM 4 shoot if it came down to it?

11:23AM 5 MR. GRABLE: Objection.

11:23AM 6 THE COURT: Overruled.

11:23AM 7 A. Yes.

11:23AM 8 Q. And if it came down to it, were you prepared to shoot  
11:23AM 9 in defense of the club?

11:23AM 10 A. Yes.

11:23AM 11 Q. And in defense of the brothers that traveled to  
11:23AM 12 Tennessee with you?

11:23AM 13 A. Yes.

11:23AM 14 Q. Did you expect all of the men to the right of you and  
11:23AM 15 to the left of you as you pulled into the Outlaws clubhouse to  
11:23AM 16 do the same?

11:23AM 17 A. Yes.

11:23AM 18 Q. And you couldn't shoot if you didn't have guns,  
11:23AM 19 correct?

11:23AM 20 A. Correct.

11:23AM 21 Q. Now, you've testified a few times that there was a  
11:24AM 22 claim that the Kingsmen voted down going one-percent, correct?

11:24AM 23 A. Yes.

11:24AM 24 Q. What is a one-percent club in your view?

11:24AM 25 A. In my view, a one-percent club is one that is under

1 T. HALEY - RDX BY MR. TRIPI

11:24AM 2 nobody else's authority, creates their own laws and bylaws, and  
11:24AM 3 is not subservant to any other motorcycle organization.

11:24AM 4 Q. What types of activities, in your experience, are  
11:24AM 5 one-percent clubs involved in?

11:24AM 6 A. My experience is that the other one-percent clubs are  
11:24AM 7 involved in criminal activity.

11:24AM 8 Q. Which is what?

11:24AM 9 A. Drugs, prostitution.

11:24AM 10 Q. Guns?

11:24AM 11 A. Guns collecting.

11:24AM 12 Q. Violence?

11:24AM 13 A. Violence, yes.

11:24AM 14 Q. And the Kingsmen were involved in all of those things?

11:24AM 15 A. Yes.

11:24AM 16 Q. So would it be accurate to say the Kingsmen were a  
11:24AM 17 one-percent club that didn't wear the patch?

11:24AM 18 A. That was common among us to say.

11:25AM 19 Q. And you said it a number of times?

11:25AM 20 A. On numerous posts.

11:25AM 21 Q. And David Pirk said it?

11:25AM 22 A. Yes.

11:25AM 23 Q. And what did David Pirk say without having the patch?

11:25AM 24 A. We don't need to put on the one-percent patch. That  
11:25AM 25 will draw the attention of the government and the irritation of

1 T. HALEY - RDX BY MR. TRIPI

11:25AM 2 the other one-percent clubs and we are already a one-percent  
11:25AM 3 club.

11:25AM 4 Q. And that is certainly how you viewed it under Pirk's  
11:25AM 5 tenure?

11:25AM 6 A. Yes.

11:25AM 7 Q. And that was the reason for the Diamond 11 patch. The  
11:25AM 8 only difference there is not a one-percent club?

11:25AM 9 MR. COVERT: Objection. That is not what he is  
11:25AM 10 trying to -- what he testified to. He is getting him to change  
11:25AM 11 it.

11:25AM 12 MR. GRABLE: Objection, leading.

11:25AM 13 THE COURT: I'm going to sustain on leading  
11:25AM 14 grounds.

11:25AM 15 Q. What was the reason for having a diamond patch on?

11:25AM 16 A. Several diamond patches were created to put it on  
11:26AM 17 without putting the one-percent logo in it.

11:26AM 18 Q. And the diamond is the same design as a one-percent  
11:26AM 19 patch?

11:26AM 20 A. Yes.

11:26AM 21 Q. And all of this occurred, what I'm asking you about,  
11:26AM 22 officially under David Pirk and Tim Enix's leadership, correct?

11:26AM 23 A. Yes.

11:26AM 24 MR. GRABLE: Leading, objection.

11:26AM 25 THE COURT: Sustained.

1 T. HALEY - RDX BY MR. TRIPI

11:26AM 2 Q. Did all of this occur under whose leadership?

11:26AM 3 THE COURT: Go ahead. You can answer that.

11:26AM 4 A. The transition was under David and Blaze.

11:26AM 5 Q. Now, getting back to how hard this has been for you.

11:26AM 6 It's been hard, correct?

11:26AM 7 MR. GRABLE: Leading, your Honor.

11:26AM 8 MR. TRIPI: Laying foundation.

11:26AM 9 THE COURT: Overruled.

11:26AM 10 Q. And you've been interviewed a number of times, correct?

11:26AM 11 A. Yes.

11:26AM 12 Q. And I assume when the FBI knocked on your door May  
11:26AM 13 18th, 2016, you were a little nervous, true?

11:26AM 14 A. Yes.

11:26AM 15 Q. And then you talked to Special Agent Dave Brown for a  
11:26AM 16 while in your living room and he sat on your couch, correct?

11:27AM 17 MR. GRABLE: Objection to the leading.

11:27AM 18 MR. TRIPI: This was an area we covered, Judge.

11:27AM 19 THE COURT: It is. I'll allow it. Overruled.

11:27AM 20 Q. Correct?

11:27AM 21 A. Yes.

11:27AM 22 Q. And you talked to him in a more relaxed atmosphere,  
11:27AM 23 true, your living room versus the courtroom in front of all  
11:27AM 24 these people?

11:27AM 25 A. Yes.

1 T. HALEY - RDX BY MR. TRIPI

11:27AM 2 Q. And you've already said you withheld some information,  
11:27AM 3 correct?

11:27AM 4 A. Yes.

11:27AM 5 Q. But you certainly made references to Enix in that  
11:27AM 6 conversation, without saying exactly what you said, true?

11:27AM 7 A. Yes.

11:27AM 8 Q. And you made references to Pirk, correct?

11:27AM 9 A. Yes.

11:27AM 10 Q. And not one time did you describe Enix as a peacemaker,  
11:27AM 11 correct?

11:27AM 12 A. Correct.

11:27AM 13 Q. And not one time did you describe Pirk as a peacemaker,  
11:27AM 14 correct?

11:27AM 15 A. Correct.

11:27AM 16 Q. And then we fast forward a little bit to the day of  
11:27AM 17 your arrest, and Mr. Grable played it a little bit of it on the  
11:27AM 18 video, and you asked for a lawyer pretty early in the video,  
11:27AM 19 correct?

11:27AM 20 A. Yes.

11:27AM 21 Q. And really, it was small talk throughout it?

11:28AM 22 A. Yes.

11:28AM 23 Q. And things you decided to share with Dave Brown as you  
11:28AM 24 sat waiting to get processed, correct?

11:28AM 25 A. Yes.

1 T. HALEY - RDX BY MR. TRIPI

11:28AM 2 Q. And in that limited scenario, you never said, "Hey, Tim  
11:28AM 3 Enix is a peacemaker," did you?

11:28AM 4 A. No.

11:28AM 5 Q. And you never said David Pirk was a peacemaker, did  
11:28AM 6 you?

11:28AM 7 A. No.

11:28AM 8 Q. And then you signed a proffer agreement with the  
11:28AM 9 government, correct?

11:28AM 10 A. Yes.

11:28AM 11 Q. And on November 16, 2017, about a month or so after  
11:28AM 12 your arrest, you sat down with your attorney, Matt Lembke,  
11:28AM 13 government lawyers and federal agents, true?

11:28AM 14 A. Yes.

11:28AM 15 Q. At a building right next door, correct?

11:28AM 16 A. Yes.

11:28AM 17 Q. For hours?

11:28AM 18 A. Yes.

11:28AM 19 Q. And you were asked questions up and down about all of  
11:28AM 20 this stuff, correct?

11:28AM 21 A. Correct.

11:28AM 22 Q. And you were asked specific questions about the  
11:28AM 23 conversation where Pirk was in Florida with you and Blaze and  
11:28AM 24 he said, "I should have Filly and Special Ed whacked," correct?

11:28AM 25 A. Yes.

1 T. HALEY - RDX BY MR. TRIPI

11:29AM 2 Q. And when you're asked questions, you never said Enix  
11:29AM 3 was the peacemaker, correct?

11:29AM 4 A. Correct.

11:29AM 5 Q. And you never said that Enix was saying, "Oh, we should  
11:29AM 6 just let the national board handle what the national board  
11:29AM 7 handles," in the conversation, correct?

11:29AM 8 A. Correct.

11:29AM 9 Q. And, again, November 28th, 2017, your next proffer,  
11:29AM 10 same thing. You were asked questions up and down about these  
11:29AM 11 topics, correct?

11:29AM 12 A. Yes.

11:29AM 13 Q. And you never described Enix as a peacemaker, did you?

11:29AM 14 A. Never.

11:29AM 15 Q. Did someone in Florida approach you and tell you to say  
11:29AM 16 the word "peacemaker" in connection with Tim Enix?

11:29AM 17 A. No.

11:29AM 18 Q. When you pled guilty in front of Judge Wolford, you had  
11:29AM 19 a factual basis in your plea agreement, didn't you?

11:29AM 20 A. Yes.

11:29AM 21 Q. And you were under oath, correct?

11:29AM 22 A. Yes.

11:29AM 23 Q. And as a part of your plea of guilty, you admitted to  
11:29AM 24 becoming a part of Kingsmen, correct?

11:30AM 25 A. Yes.



1 T. HALEY - RDX BY MR. TRIPI

11:30AM 2 Q. And you admitted that the purposes were to sell untaxed  
11:30AM 3 cigarettes, correct?

11:30AM 4 A. That we sold cigarettes at the clubhouse, yes.

11:30AM 5 Q. And that people distributed controlled substances?

11:30AM 6 A. Yes.

11:30AM 7 Q. And you already admitted you partook in that, correct?

11:30AM 8 A. Yes.

11:30AM 9 Q. And you sold pills to other Kingsmen or distributed  
11:30AM 10 them?

11:30AM 11 A. Yes.

11:30AM 12 Q. And you distributed marijuana to other Kingsmen,  
11:30AM 13 correct?

11:30AM 14 A. Yes.

11:30AM 15 Q. And you obtained those things from other Kingsmen, the  
11:30AM 16 marijuana, correct?

11:30AM 17 A. Yes.

11:30AM 18 Q. And you admitted that clubhouses where you've done  
11:30AM 19 drugs yourselves were maintained as drug premises, correct?

11:30AM 20 A. I'm sorry. I don't know what you mean "maintained."

11:30AM 21 Q. Clubhouses where drugs could be used?

11:30AM 22 A. Yes.

11:30AM 23 Q. And sold?

11:30AM 24 MR. COVERT: Your Honor, I'm going to object to  
11:30AM 25 reading the factual portion.

1 T. HALEY - RDX BY MR. TRIPI

11:30AM 2 MR. TRIPI: Again, we discussed this.

11:30AM 3 THE COURT: Overruled.

11:30AM 4 A. Yes.

11:30AM 5 Q. And you agreed that the organization was involved in  
11:31AM 6 violence, the organization you participated in, true?

11:31AM 7 A. Yes.

11:31AM 8 Q. And you did that all under oath, correct?

11:31AM 9 A. Yes.

11:31AM 10 Q. And during the plea agreement and the colloquy with the  
11:31AM 11 Court, there was a paragraph that addressed David Pirk and Tim  
11:31AM 12 Enix, wasn't there?

11:31AM 13 A. I'm not recalling it.

11:31AM 14 Q. The point is, you never described them in the plea  
11:31AM 15 agreement or under oath before the Court as peacemakers?

11:31AM 16 A. Never.

11:31AM 17 Q. So that was new on the stand, correct, when you said  
11:31AM 18 that word?

11:31AM 19 A. Yes.

11:31AM 20 Q. Now, getting back to Tim Enix.

11:32AM 21 MR. TRIPI: Ms. Prawel, 153.1, page 17.

11:32AM 22 Q. You were asked questions yesterday I think from Mr.  
11:32AM 23 Grable, page 17, Ms. Prawel, where he asked you questions about  
11:32AM 24 Tim Enix not able to give Nomads direction, correct?

11:32AM 25 A. Yes.

1 T. HALEY - RDX BY MR. TRIPI

11:32AM 2 Q. If you look at this post from November 22, 2013, Blaze  
11:32AM 3 is the Florida Regional President, isn't he?

11:32AM 4 A. Yes.

11:32AM 5 Q. And captain is a reference to Captain America, correct?

11:32AM 6 A. Yes.

11:32AM 7 Q. Who is a Nomad at this time, about a month or two  
11:32AM 8 before he left the club?

11:32AM 9 A. Okay, yes.

11:32AM 10 Q. And that first sentence, first two sentences before,  
11:33AM 11 "Great job, Captain," that is consistent with Defendant Enix  
11:33AM 12 giving an order to a Nomad?

11:33AM 13 MR. GRABLE: Object to the leading, your Honor.

11:33AM 14 THE COURT: Sustained.

11:33AM 15 Q. Is that consistent with Defendant Enix giving an order  
11:33AM 16 to a Nomad?

11:33AM 17 A. Yes.

11:33AM 18 MR. GRABLE: Objection, Judge.

11:33AM 19 THE COURT: Sustained.

11:33AM 20 Q. What does that appear to be to you?

11:33AM 21 A. Blaze giving orders to one of the Nomads.

11:33AM 22 Q. Now, the baseball team, the baseball team was Mr.  
11:33AM 23 Enix's security team, correct?

11:33AM 24 A. One of the descriptions of them was security.

11:33AM 25 Q. His son Tank was on the baseball team?

1 T. HALEY - RDX BY MR. TRIPI

11:33AM 2 A. Yes.

11:33AM 3 Q. And he is a cocaine dealer?

11:33AM 4 MR. GRABLE: Object to the leading.

11:34AM 5 THE COURT: Sustained.

11:34AM 6 Q. What drug did Tank deal?

11:34AM 7 A. Cocaine and marijuana.

11:34AM 8 Q. Do you know whether or not Mr. Jenkins sold drugs?

11:34AM 9 A. Never. No, I don't.

11:34AM 10 Q. Do you know whether or not he used drugs?

11:34AM 11 A. No, I don't.

11:34AM 12 Q. How about Vegas? Do you know whether or not he was  
11:34AM 13 involved with drug use or distribution?

11:34AM 14 A. Not distribution, but use as far as I know.

11:34AM 15 Q. What did you know him to use?

11:34AM 16 A. Cocaine.

11:34AM 17 Q. How about Shine?

11:34AM 18 A. Yes.

11:34AM 19 Q. And all four of those guys are on the baseball team?

11:34AM 20 MR. GRABLE: Leading, your Honor.

11:34AM 21 THE COURT: Overruled.

11:34AM 22 Q. Correct?

11:34AM 23 A. Yes.

11:34AM 24 Q. And who hand picked the baseball team?

11:34AM 25 A. Blaze did.

1 T. HALEY - RDX BY MR. TRIPI

11:34AM 2 MR. TRIPI: Ms. Prawel, can we go back to 153,  
11:34AM 3 page 47; 153.1, page 47.

11:35AM 4 Q. Read that first line out loud.

11:35AM 5 A. "There has been some confusion here in Florida about  
11:35AM 6 patches and the security team I put together."

11:35AM 7 Q. What is that referencing as you understand it?

11:35AM 8 A. What we called Blaze's ego team, the baseball team.

11:35AM 9 Q. Some of the people I just displayed a photo of a moment  
11:35AM 10 ago?

11:35AM 11 A. Yes.

11:35AM 12 Q. And it says, "the team I put together," true?

11:36AM 13 A. Yes.

11:36AM 14 Q. Let's go to page 91. Do you see that message?

11:36AM 15 A. I do.

11:36AM 16 Q. Is that from your knowledge of the Kingsmen, an order  
11:36AM 17 for others to take Slim Jim's patches, that last sentence?

11:36AM 18 A. Yes.

11:36AM 19 Q. And in the world you lived in, if Slim Jim refused to  
11:36AM 20 give up his patches to Kingsmen who went to take them, what is  
11:36AM 21 the expected result?

11:36AM 22 A. That you were to come back with the patches by any  
11:37AM 23 means necessary.

11:37AM 24 Q. Including what?

11:37AM 25 A. Physically take them off of him.

1 T. HALEY - RDX BY MR. TRIPI

11:37AM 2 Q. Is that consistent with ordering potential violence?

11:37AM 3 A. Yes.

11:37AM 4 MR. GRABLE: Leading, your Honor.

11:37AM 5 THE COURT: Sustained.

11:37AM 6 MR. GRABLE: Move to strike.

11:37AM 7 THE COURT: Ladies and gentlemen, you should  
11:37AM 8 disregard the last answer.

11:37AM 9 Q. Let's go to March 2nd, 2016, page 101. What does that  
11:37AM 10 appear to be to you relating to Blaze and the reference to the  
11:37AM 11 Nomads?

11:37AM 12 A. Again, Blaze attempting to give orders to the Nomads.

11:37AM 13 Q. And who is Shine?

11:37AM 14 A. Shine was the regional Sergeant-of-Arms.

11:37AM 15 Q. And was he on the baseball team?

11:38AM 16 A. Yes.

11:38AM 17 Q. And, again, Tank was on the baseball team, correct?

11:38AM 18 MR. GRABLE: Leading, your Honor.

11:38AM 19 THE COURT: Sustained.

11:38AM 20 Q. Who is Tank?

11:38AM 21 MR. GRABLE: Leading and repetitious.

11:38AM 22 THE COURT: We've established Tank was on the  
11:38AM 23 baseball team.

11:38AM 24 Q. And who was Vegas?

11:38AM 25 A. The regional boss.

1 T. HALEY - RDX BY MR. TRIPI

11:38AM 2 MR. GRABLE: Leading.

11:38AM 3 MR. TRIPI: It's not leading.

11:38AM 4 THE COURT: Sustained.

11:38AM 5 MR. TRIPI: He might not like it. It's not  
11:38AM 6 leading.

11:38AM 7 THE COURT: Look it -- sustained. You got the  
11:38AM 8 picture up there. You covered who they were.

11:38AM 9 MR. TRIPI: I haven't been going very long, Judge.

11:38AM 10 Q. Let's go to page 153.12. Let's go to 158.5 and split  
11:38AM 11 the screen. The last page of that exhibit, Ms. Prawel.

11:39AM 12 MS. PRAWEL: 153.12.

11:39AM 13 MR. TRIPI: The last page of that exhibit and  
11:39AM 14 153.8.

11:39AM 15 MS. PRAWEL: What page?

11:39AM 16 MR. TRIPI: Page 5.

11:39AM 17 Q. Now, 153.8 is on the right-hand side, Mr. Haley. I'm  
11:39AM 18 going to ask you some questions from that message based on your  
11:39AM 19 knowledge of the club at the time. When you read that, in your  
11:39AM 20 -- based on your understanding, were there other Kingsmen  
11:39AM 21 members who were not put out who were behind in dues?

11:39AM 22 A. Yes.

11:39AM 23 Q. Were there other Kingsmen members who did not have  
11:40AM 24 working motorcycles?

11:40AM 25 A. Yes.

1 T. HALEY - RDX BY MR. TRIPI

11:40AM 2 Q. Were there other Kingsmen members who did not own their  
11:40AM 3 motorcycles that they rode?

11:40AM 4 A. Yes.

11:40AM 5 Q. And upon viewing that message, did you essentially  
11:40AM 6 promptly ask about it because of those things?

11:40AM 7 MR. GRABLE: Leading, your Honor.

11:40AM 8 MR. COVERT: And exceeds the scope of cross.

11:40AM 9 THE COURT: Sustained. It doesn't exceed the  
11:40AM 10 scope of cross. This post came up in cross.

11:40AM 11 Q. Why did you -- Exhibit 153.12, why did you make the  
11:40AM 12 post on the left?

11:40AM 13 A. Because it was suspicious.

11:40AM 14 Q. Why was it suspicious?

11:40AM 15 A. Because there are lots of other Kingsmen that didn't  
11:40AM 16 have motorcycles and were behind in their dues and they weren't  
11:40AM 17 put out.

11:40AM 18 Q. Now, we can take that down. Now, you were asked about  
11:41AM 19 slang terms for drugs and asked about chronic use, right?

11:41AM 20 A. Yes.

11:41AM 21 Q. What about the word stoned? Is that another slang  
11:41AM 22 term?

11:41AM 23 A. Yes.

11:41AM 24 Q. And for what?

11:41AM 25 A. Under the influence of.



1 T. HALEY - RDX BY MR. TRIPI

11:41AM 2 Q. Of drugs?

11:41AM 3 A. Yes.

11:41AM 4 Q. You were asked some questions earlier today about the  
11:41AM 5 question wherein Pirk said Filly and Special Ed, he was talking  
11:41AM 6 about throwing them out or having them ratted on or words to  
11:41AM 7 that effect, for drugs, remember that?

11:41AM 8 A. Yes.

11:41AM 9 Q. There were some questions about that today. And you  
11:41AM 10 were telling Mr. Grable, you're taking it out of context, or  
11:41AM 11 you referenced context?

11:42AM 12 A. Yes.

11:42AM 13 Q. What did you mean by that?

11:42AM 14 A. I meant that we returned from the meeting in Buffalo  
11:42AM 15 where Pirk initially was very, very angry, but not embarrassed,  
11:42AM 16 but as we came back to Florida and more people started talking  
11:42AM 17 about the meeting, he got more embarrassed.

11:42AM 18 MR. EASTON: Objection, your Honor.

11:42AM 19 MR. TRIPI: Personal observation based on the  
11:42AM 20 perception.

11:42AM 21 THE COURT: But testifying as to being  
11:42AM 22 embarrassed, I'm going to sustain that. But if he said  
11:42AM 23 something that led you to believe that, then say that. You  
11:42AM 24 can't testify as to what you thought Mr. Pirk was thinking in  
11:42AM 25 his mind. You can testify as to your observations of him, his

1 T. HALEY - RDX BY MR. TRIPI

11:42AM 2 demeanor and what he said.

11:42AM 3 THE WITNESS: Embarrassed is not part of the  
11:42AM 4 demeanor?

11:42AM 5 THE COURT: Tell us why you thought he was  
11:42AM 6 embarrassed.

11:42AM 7 A. I believed that he was embarrassed because guys started  
11:42AM 8 to hear about the meeting and what the Nomads were accusing  
11:43AM 9 them of and he would become angry and frustrated and tried to  
11:43AM 10 do something about it and remove these guys from the club.

11:43AM 11 Q. And so what was the context you wanted to explain to  
11:43AM 12 Mr. Grable earlier?

11:43AM 13 A. That it wasn't an altruistic, we need to throw the drug  
11:43AM 14 dealers out of the club kind of thing.

11:43AM 15 Q. Let me stop you there, because Special Ed and Filly had  
11:43AM 16 been drug dealers for how long?

11:43AM 17 A. Years, like the other guys that were in the club that  
11:43AM 18 were dealing drugs.

11:43AM 19 Q. Please continue.

11:43AM 20 A. It wasn't altruistic. We need to throw the guys out.  
11:43AM 21 They didn't want to talk about the elephant in the room. They  
11:43AM 22 turned this club into a three-man dictatorship and that is what  
11:43AM 23 the other guys were talking about. And rather than talk about  
11:43AM 24 the meeting, we were talking about spit balls and one of the  
11:44AM 25 reasons it was officially ignored. You had to throw out the

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11:44AM 2 drug dealers.

11:44AM 3 Q. What do you mean officially not accepted?

11:44AM 4 A. Pirk would say, "Don't let me catch you dealing drugs,"  
11:44AM 5 but everybody was doing that.

11:44AM 6 Q. And did that continue with Pirk and others as the  
11:44AM 7 leaders?

11:44AM 8 MR. GRABLE: Leading, your Honor.

11:44AM 9 A. Yes.

11:44AM 10 THE COURT: Overruled.

11:44AM 11 MR. TRIPI: No further redirect.

11:44AM 12 MR. COVERT: Can we have a short restroom break?

11:44AM 13 THE COURT: Ladies and gentlemen, let's take a  
11:44AM 14 short break. Why don't we finish up about ten of, that is my  
11:44AM 15 goal, aspiration.

11:52AM 16 (Whereupon, a short recess was taken.)

11:52AM 17 THE COURT: Can we deal with Mr. Covert and Mr.  
11:52AM 18 Green's issue? Cheryl is not here.

11:52AM 19 MR. COVERT: We'll waive Mr. Jenkins' appearance.

11:52AM 20 THE COURT: I think I should give an instruction  
11:52AM 21 to the jury. I think they could be confused. There are two  
11:53AM 22 objections. One, Ms. Shelvey objected when there was  
11:53AM 23 cross-examination to the attorney cross-examining, testifying,  
11:53AM 24 and then Mr. Grable just objected to Mr. Tripi testifying. I  
11:53AM 25 think I should clarify for the jury that the attorneys are not

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11:53AM 2 testifying. In other words, leading questions are the types of  
11:53AM 3 questions that are typically only allowed on cross-examination.  
11:53AM 4 I have, on some occasions, allowed them, on direct examination,  
11:53AM 5 when they're suggesting an answer to the witness, it's not the  
11:53AM 6 attorney testifying; it's the witness who is giving testimony  
11:53AM 7 and evidence consistent with the preliminary instruction  
11:53AM 8 consists of a question and an answer, not just the question.

11:53AM 9 MR. TRIPI: No objection.

11:53AM 10 THE COURT: Any objection, defense counsel?

11:53AM 11 MR. COVERT: No.

11:53AM 12 MR. CONNORS: To the instruction, is the evidence  
11:53AM 13 the value to the question? Is the answer not the question?

11:53AM 14 THE COURT: I could say that the objection is the  
11:54AM 15 attorneys testifying and I've said "overruled." I don't want  
11:54AM 16 the jury to be confused that somehow I'm suggesting that the  
11:54AM 17 attorney is actually giving testimony. The testimony -- the  
11:54AM 18 person under oath is the witness.

11:54AM 19 MR. CONNORS: But don't you do that by overruling  
11:54AM 20 the objection? I'm not sure why.

11:54AM 21 THE COURT: Because what I've said is that is  
11:54AM 22 cross-examination. In other words, I think I need to explain  
11:54AM 23 to them the fact that a leading question is a question that  
11:54AM 24 allows an answer. I've allowed it on cross-examination. The  
11:54AM 25 attorney is not testifying. It's the witness that is

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11:54AM 2 testifying.

11:54AM 3 MR. CONNORS: I guess if you're asking me do I  
11:54AM 4 have an objection, I do. I don't think I do, I know I do. I  
11:55AM 5 don't see the need for it at this juncture. I don't see the  
11:55AM 6 thing of how it fits or whether it would improperly underscore.

11:55AM 7 THE COURT: I don't want them to think I was  
11:55AM 8 somehow suggesting that Mr. Tripi was giving evidence.

11:55AM 9 MR. CONNORS: But how would they take that from  
11:55AM 10 anything you said?

11:55AM 11 THE COURT: If you don't think -- I'm more  
11:55AM 12 concerned from a defense perspective. Mr. Grable objected on  
11:55AM 13 the grounds that Mr. Tripi was testifying and I overruled and I  
11:55AM 14 said that happens on cross-examination. So I don't want the  
11:55AM 15 jury to somehow think I was suggesting that Mr. Tripi was  
11:55AM 16 giving testimony here.

11:55AM 17 MR. CONNORS: I see.

11:55AM 18 THE COURT: But if you don't think it's necessary,  
11:55AM 19 then we can save it for final charge, I mean.

11:56AM 20 MR. CONNORS: I think, for me, it depends what  
11:56AM 21 you're going to say. You intend to convey to the jury no  
11:56AM 22 matter who is doing the questioning, it's not the question  
11:56AM 23 posed that really is the evidence of something.

11:56AM 24 THE COURT: Right. That, in other words, the  
11:56AM 25 testimony elicited in this trial is from the witnesses, not

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11:56AM 2 from the attorneys, and therefore, while they need to consider  
11:56AM 3 the answer, since we're having difficulty with it, right here  
11:56AM 4 it's best to leave it for final charge. I thought it would  
11:56AM 5 make sense to clean it up, but if defense counsel don't believe  
11:56AM 6 that, I'll refrain from doing it.

11:56AM 7 I'm not hearing a request from defense counsel?

11:56AM 8 MR. GRABLE: Correct.

11:56AM 9 THE COURT: Mr. Covert?

11:56AM 10 MR. COVERT: I'll leave it to my fellow defense  
11:56AM 11 counsel.

11:56AM 12 THE COURT: Mr. Easton?

11:57AM 13 MR. EASTON: I just spoke to Mr. Connors, we're  
11:57AM 14 not asking for it.

11:57AM 15 THE COURT: Okay, fair enough. We'll leave it for  
11:57AM 16 final charge. What is your issue with respect to Mr. Green,  
11:57AM 17 Mr. Connors?

11:57AM 18 MR. CONNORS: Ms. Shelvey provided 3527.30 and I  
11:57AM 19 took a look at it and indicated she wants to use it with  
11:57AM 20 redirect examination. It came up -- the detention and release  
11:57AM 21 came up when I was cross-examining him, but at that time, we  
11:57AM 22 said I wasn't allowed to get in the violent bully aspect of it  
11:57AM 23 and I suppose the order is going to be offered to show there  
11:57AM 24 were conditions placed on his release. But that document  
11:57AM 25 itself implies he can't contact anyone from the KMC and all

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11:57AM 2 sorts of additional hearsay in it. I do not think the document  
11:58AM 3 should come into evidence.

11:58AM 4 THE COURT: What is the basis of trying to get  
11:58AM 5 this into evidence?

11:58AM 6 MS. SHELVEY: I wasn't planning. I was going to  
11:58AM 7 refresh his recollection if he couldn't remember all of the  
11:58AM 8 conditions of release.

11:58AM 9 THE COURT: Are you going through all of the  
11:58AM 10 conditions of release?

11:58AM 11 MR. TRIPI: Yes.

11:58AM 12 THE COURT: I will tell you right now. I'm going  
11:58AM 13 to put time limits on Mr. Green. Hopefully we'll get done with  
11:58AM 14 him today. You're going to go through all of the conditions of  
11:58AM 15 release. What is the basis for that?

11:58AM 16 MS. SHELVEY: Because counsel asked Mr. Green  
11:58AM 17 about the government reversing his position and did not --

11:58AM 18 THE COURT: Which they absolutely did.

11:58AM 19 MS SHELVEY: The statement after that and now  
11:58AM 20 you're walking out, walking out free, implying there is no  
11:58AM 21 control. The government said he was violent and now he is out  
11:58AM 22 there. If Mr. Connors had not made that comment, "and now  
11:58AM 23 you're out walking around free," he is on conditions of drug  
11:58AM 24 testing, drug counseling, curfew, no contact with witnesses, no  
11:58AM 25 contact with anyone involved in the case. He needs to be

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11:59AM 2 employed. These are all contrary to just walking around free.  
11:59AM 3 There are a number of things I wasn't going to spend a lot of  
11:59AM 4 time on if he didn't remember what they were. If counsel  
11:59AM 5 doesn't mind me leading, were your conditions boom, boom, boom,  
11:59AM 6 boom, and that will take all of 30 seconds.

11:59AM 7 MR. CONNORS: I do mind it and I don't think it's  
11:59AM 8 appropriate. For example, look at the last condition, implies  
11:59AM 9 that there are problems with all of the KMC people by  
11:59AM 10 suggesting you can't hang around with these people.

11:59AM 11 THE COURT: Were you going to get into that?

11:59AM 12 MS. SHELVEY: I don't have to. I'm more concerned  
11:59AM 13 about --

11:59AM 14 THE COURT: I'll let you get into the curfew and  
11:59AM 15 that's it. That is going to be my ruling, okay? Else before  
11:59AM 16 Mr. Green testifies? No? Okay, let's get Mr. Haley back in  
11:59AM 17 here.

11:59AM 18 MR. TRIPI: I will say, he is on a different floor  
11:59AM 19 before he even testifies.

12:00PM 20 THE COURT: I want to be done by 2 o'clock with  
12:00PM 21 Mr. Green wherever we are. I'm not placing limits on Haley  
12:00PM 22 because we haven't done that. I'm going to place limits that  
12:00PM 23 include each defense counsel is going to get the same amount of  
12:00PM 24 time as the government does.

12:00PM 25 MR. TRIPI: We intend to be succinct.



1 T. HALEY - RX BY MR. EASTON

12:00PM 2 THE COURT: So we'll see what time is left between  
12:00PM 3 when we left Haley and 2 o'clock and I'll divvy up that time by  
12:00PM 4 four.

12:00PM 5 MS. SHELVEY: Yes, your Honor.

12:00PM 6 MR. CONNORS: My mic is off.

12:00PM 7 THE COURT: One, two, three, testing.

12:00PM 8 MR. CONNORS: Divvy up the redirect.

12:00PM 9 THE COURT: You will have the same amount of time.  
12:00PM 10 You and Mr. Connors will have the same amount of time. Come on  
12:00PM 11 in, Mr. Haley.

12:00PM 12 (Witnesses retakes the witness stand.)

12:00PM 13 (The jury is escorted in the courtroom.)

12:01PM 14 THE COURT: Thank you for your patience. Welcome  
12:01PM 15 back. Everybody can have of a seat. Mr. Easton, when you're  
12:01PM 16 ready, you can -- maybe when Sandra sits down, you can commence  
12:01PM 17 your cross-examination or recross. Go ahead.

12:01PM 18 RECROSS EXAMINATION BY MR. EASTON:

12:01PM 19 Q. Good morning, Mr. Haley.

12:01PM 20 A. Good morning.

12:01PM 21 Q. A few questions to follow up. The Kingsman Motorcycle  
12:01PM 22 Club is not a one-percent motorcycle club. Is that true or  
12:02PM 23 false?

12:02PM 24 A. True.

12:02PM 25 Q. It's not. I'm going to speak plainly and clearly. The

1 T. HALEY - RX BY MR. EASTON

12:02PM 2 Kingsman Motorcycle Club is not a one-percent club. Is that  
12:02PM 3 true?

12:02PM 4 A. Not officially.

12:02PM 5 Q. Not officially.

12:02PM 6 A. Yes.

12:02PM 7 Q. But it doesn't hold itself as a one-percent club?

12:02PM 8 A. No. That is the OPPOSITE. We do hold ourselves out as  
12:02PM 9 one, but we don't wear the patch.

12:02PM 10 Q. Do you affiliate yourselves with the Outlaws?

12:02PM 11 A. Do we affiliate?

12:02PM 12 Q. Are you on the same level of the Outlaws or the Pagans  
12:02PM 13 or the Mongols or Warlocks or are you different?

12:02PM 14 A. We're different.

12:02PM 15 Q. And because you're not a one-percent club; is that  
12:02PM 16 true?

12:02PM 17 A. Yes, the way you're phrasing it is true.

12:02PM 18 Q. Well, I don't want to play games on phrasing.

12:02PM 19 A. Okay.

12:03PM 20 Q. You talked to the FBI, right?

12:03PM 21 A. Yes.

12:03PM 22 Q. And in those discussions, they asked you about  
12:03PM 23 one-percent clubs, right?

12:03PM 24 A. Yes.

12:03PM 25 Q. And you said that the Kingsmen was not a one-percent

1 T. HALEY - RX BY MR. EASTON

12:03PM 2 club?

12:03PM 3 A. Yes.

12:03PM 4 Q. Correct? Those are words; is that true?

12:03PM 5 A. Is that true that I said that to the FBI?

12:03PM 6 Q. First, is it true as a matter of fact?

12:03PM 7 MR. TRIPI: I'm objecting to time frame. Which  
12:03PM 8 date?

12:03PM 9 Q. You talked to the FBI November 16th, 2016?

12:03PM 10 MR. TRIPI: Objection. There is more than just  
12:03PM 11 one statement.

12:03PM 12 THE COURT: Overruled. Go ahead.

12:03PM 13 Q. Did you tell the FBI on November 6th, 2014 that THE  
12:04PM 14 Kingsmen are not a one-percent club?

12:04PM 15 A. Yes.

12:04PM 16 Q. And then they showed you a Facebook post that you imply  
12:04PM 17 that it was?

12:04PM 18 A. Yes.

12:04PM 19 Q. And you say it wasn't. You were basically talking  
12:04PM 20 tough, but the Kingsmen is not a one-percent club. Is that  
12:04PM 21 true?

12:04PM 22 A. No, I believe I was saying the opposite.

12:04PM 23 Q. You didn't say that you were talking tough in the post,  
12:04PM 24 but the Kingsmen was not a one-percent club?

12:04PM 25 A. Yes. I thought you meant the post, yes.

1 T. HALEY - RX BY MR. EASTON

12:04PM 2 Q. So the Kingsmen is not a one-percent club?

12:04PM 3 A. That is what I said to the FBI.

12:04PM 4 Q. And that's true?

12:04PM 5 A. It's so open to interpretation. We held ourselves  
12:04PM 6 internally as a one-percent club that didn't wear the patch.

12:04PM 7 Q. Internally. But externally, you can designate, there  
12:04PM 8 are clubs that have insignia saying we're a one-percent club?

12:05PM 9 A. Yes.

12:05PM 10 Q. That is the Outlaws?

12:05PM 11 A. Yes.

12:05PM 12 Q. And the Hells Angels?

12:05PM 13 A. Yes.

12:05PM 14 Q. And the Mongols?

12:05PM 15 A. Yes.

12:05PM 16 Q. And the Warlocks?

12:05PM 17 A. Yes.

12:05PM 18 Q. And the Kingsmen were not that?

12:05PM 19 A. Yes.

12:05PM 20 Q. They were decidedly not that. It was an affirmative  
12:05PM 21 choice not to go that way?

12:05PM 22 A. Yes.

12:05PM 23 Q. And that is the truth, right?

12:05PM 24 A. Yes.

12:05PM 25 Q. And that is the truth because Mr. Pirk didn't want to

1 T. HALEY - RX BY MR. EASTON

12:05PM 2 go that way. He took it to a vote, right?

12:05PM 3 A. Right.

12:05PM 4 Q. And the vote was not to go one percent?

12:05PM 5 A. Yes.

12:05PM 6 Q. And Mr. Pirk was fine with that, right?

12:05PM 7 A. Yes.

12:05PM 8 Q. And, in fact, that was his position, right?

12:05PM 9 A. Yes.

12:05PM 10 Q. So he didn't want to take it one percent; is that  
12:05PM 11 correct?

12:05PM 12 A. I'm sorry?

12:05PM 13 MR. TRIPI: Objection as to what Mr. Pirk wanted.

12:05PM 14 THE COURT: Sustained.

12:05PM 15 Q. Now, there were members of the Kingsmen Motorcycle Club  
12:05PM 16 that wanted to be a one-percent club?

12:05PM 17 A. Yes.

12:05PM 18 Q. And that included Special Ed, right?

12:05PM 19 A. Yes.

12:05PM 20 Q. And that included Buzzy, Captain America, right?

12:05PM 21 A. Yes.

12:05PM 22 Q. And that included Caruso, right?

12:05PM 23 A. Yes.

12:05PM 24 Q. And those guys wanted to be a one-percent club?

12:05PM 25 A. Yes.

1 T. HALEY - RX BY MR. EASTON

12:05PM 2 Q. And Mr. Pirk didn't?

12:05PM 3 A. Correct.

12:06PM 4 Q. And there was a conflict there, right?

12:06PM 5 A. Yes.

12:06PM 6 Q. And Mr. Pirk tried to throw Special Ed out of the club,  
12:06PM 7 right?

12:06PM 8 A. Yes.

12:06PM 9 Q. And you prevented that, you advocated for him not to do  
12:06PM 10 it?

12:06PM 11 A. Yes.

12:06PM 12 Q. But Mr. Pirk wanted him out because he didn't want what  
12:06PM 13 Special Ed wanted, which is to have the Kingsmen become a  
12:06PM 14 one-percent club; is that right?

12:06PM 15 A. That is not why he wanted to throw him out at the time.

12:06PM 16 Q. He wanted to throw him out because he was using meth?

12:06PM 17 A. And not following orders.

12:06PM 18 Q. And using meth and becoming violent?

12:06PM 19 A. Yes.

12:06PM 20 Q. And using meth and becoming violent is something a  
12:06PM 21 one-percent club wouldn't tolerate, right?

12:06PM 22 MR. TRIPI: Objection.

12:06PM 23 THE COURT: Sustained.

12:06PM 24 Q. And Special Ed became an Outlaw, correct?

12:06PM 25 MR. TRIPI: Objection, beyond the scope.

1 T. HALEY - RX BY MR. EASTON

12:06PM 2 THE COURT: Overruled. I'll allow that question.

12:06PM 3 Q. He became an Outlaw, right?

12:06PM 4 A. Yes.

12:06PM 5 Q. And really 2014 or 2013, end of 2013 and into 2014, Mr.

12:07PM 6 Pirk wanted him out and you persuaded him to keep Special Ed

12:07PM 7 in, right?

12:07PM 8 A. Yes.

12:07PM 9 Q. Because you respected Special Ed?

12:07PM 10 A. Respect would not be the correct word. I believe he  
12:07PM 11 had potential.

12:07PM 12 Q. Potential. Now let's talk -- I referenced your  
12:07PM 13 talking, tough, that you said that you talk tough sometimes,  
12:07PM 14 right?

12:07PM 15 A. Yes.

12:07PM 16 Q. And you say things in your e-mail that are tough and  
12:07PM 17 crude and basically made up; is that correct?

12:07PM 18 A. Not made up, but talk tough and crude, yes.

12:07PM 19 Q. I'll show you what Mr. Tripi displayed as TE 5157, and  
12:07PM 20 it's page, the fifth page of this exhibit. I believe it's in  
12:07PM 21 evidence. Do you recognize this document?

12:08PM 22 A. Yes.

12:08PM 23 Q. And it's a Facebook posting, I assume, right?

12:08PM 24 A. Yes.

12:08PM 25 Q. And it's from you, right?

1 T. HALEY - RX BY MR. EASTON

12:08PM 2 A. Yes.

12:08PM 3 Q. And I'm not going to have you read it out loud, believe  
12:08PM 4 me. But there are things in there that are just very crude,  
12:08PM 5 right?

12:08PM 6 A. Yes.

12:08PM 7 Q. And I'm directing you to the middle of the paragraph,  
12:08PM 8 after all of the bosses made it with the national boss riding  
12:08PM 9 into --

12:08PM 10 A. Yes.

12:08PM 11 Q. And that is very crude, right?

12:08PM 12 A. Yes.

12:08PM 13 Q. And watching Pirk ride in wearing his Nomad patches,  
12:08PM 14 this is stuff -- first of all, do you know if Pirk ever even  
12:08PM 15 saw this e-mail?

12:08PM 16 A. No, I don't know if Pirk saw it.

12:08PM 17 Q. Right, because he is not a computer guy. You testified  
12:08PM 18 to that on direct?

12:08PM 19 A. Right.

12:08PM 20 Q. You don't know if he knows how to navigate Facebook; is  
12:08PM 21 that correct?

12:08PM 22 A. I know he doesn't.

12:08PM 23 Q. Right, he doesn't. So you post this thing and you make  
12:08PM 24 this crude reference to you and your reaction to watching Mr.  
12:09PM 25 Pirk ride in with his Nomad patches, right?



1 T. HALEY - RX BY MR. EASTON

12:09PM 2 A. Yes.

12:09PM 3 Q. And you did that for a reason, right? I assume it  
12:09PM 4 wasn't literally true. You're doing it for a reason, right?

12:09PM 5 A. Yes.

12:09PM 6 Q. Because you're establishing things that are not true  
12:09PM 7 for bravado?

12:09PM 8 MR. TRIPI: Objection. Objection.

12:09PM 9 THE COURT: You showed this on redirect.

12:09PM 10 Overruled.

12:09PM 11 MR. TRIPI: Not that portion.

12:09PM 12 THE COURT: But it's a little hard to miss it.

12:09PM 13 Overruled.

12:09PM 14 A. It was true. I did watch him ride in.

12:09PM 15 Q. Come on, Mr. Haley. I have to read it. "It made my  
12:09PM 16 dick hard watching Pirk ride in wearing his Nomad patches."  
12:09PM 17 That was true?

12:09PM 18 A. We're arguing over whether or not I had an erection?

12:09PM 19 Q. No. Why are you posting that?

12:09PM 20 A. Because I saw him riding in wearing the bottom national  
12:09PM 21 rocker.

12:09PM 22 Q. That gave you a sense of pride?

12:09PM 23 A. Yes.

12:09PM 24 Q. You didn't say, "I'm proud to see Pirk because I liked  
12:10PM 25 him." You framed it in this type of language?

1 T. HALEY - RX BY MR. EASTON

12:10PM 2 A. Yes.

12:10PM 3 Q. And that is because you're establishing a persona on  
12:10PM 4 the Facebook postings as the tough guy and saying things that  
12:10PM 5 are not true?

12:10PM 6 A. Again, tough guy and saying things that are not true.

12:10PM 7 Q. You go on?

12:10PM 8 A. Not in this one. There is nothing untrue in it.

12:10PM 9 Q. Let's go through it. He is still -- he has been  
12:10PM 10 wearing -- since the Nomads -- "he has been wearing since these  
12:10PM 11 people start trying to break us all up and I got to refer to  
12:10PM 12 these cock suckers started breaking us all up." Who is he  
12:10PM 13 referring to? Who are you referring to?

12:10PM 14 A. I'm referring to the Springville chapter up in New York  
12:11PM 15 as well as some of the Nomads up in New York that were  
12:11PM 16 disgruntled.

12:11PM 17 Q. This is November 2nd of 2014. Isn't Springville pretty  
12:11PM 18 much over by then?

12:11PM 19 A. No. Springville was never over, still going on.

12:11PM 20 Q. There are people. Springville doesn't exist as a  
12:11PM 21 chapter back then in November of 2014?

12:11PM 22 A. Did to my understanding.

12:11PM 23 Q. Still up and running?

12:11PM 24 A. Yes.

12:11PM 25 Q. Is that to your understanding?

1 T. HALEY - RX BY MR. EASTON

12:11PM 2 A. Yes.

12:11PM 3 Q. All right. So he has been wearing his Nomad patches,  
12:11PM 4 okay, Mr. Pirk?

12:11PM 5 A. Okay.

12:11PM 6 Q. Well, instead of his National President patches?

12:11PM 7 A. Yes.

12:11PM 8 Q. And that made you proud?

12:11PM 9 A. Yes.

12:11PM 10 Q. Because he was proud to be a Nomad?

12:11PM 11 A. I was proud that he was a Nomad.

12:11PM 12 Q. And he was wearing the Nomad patches as opposed to  
12:11PM 13 wearing his National President patch?

12:11PM 14 A. Yes.

12:11PM 15 Q. And then it says, "He is still in war. We ain't taking  
12:12PM 16 no shit mode." All right. Now, that doesn't mean, in your  
12:12PM 17 estimation -- what did you mean by that? He is still in war,  
12:12PM 18 we ain't taking no shit mode?

12:12PM 19 A. That he is not backing down from the Outlaws, from  
12:12PM 20 Springville, or from the disgruntled group of Nomads, whoever  
12:12PM 21 else is disgruntled with that.

12:12PM 22 Q. And this is nothing despite the reference to war, does  
12:12PM 23 that necessarily implicate violence?

12:12PM 24 A. Does it necessarily?

12:12PM 25 Q. Right.

1 T. HALEY - RX BY MR. EASTON

12:12PM 2 A. Not necessarily.

12:12PM 3 Q. It means standing up to?

12:12PM 4 A. Yes.

12:12PM 5 Q. And you weren't implying he was at war, out to kill  
12:12PM 6 people, were you?

12:12PM 7 A. No.

12:12PM 8 Q. That wasn't your intent?

12:12PM 9 A. No.

12:12PM 10 Q. But you were using inflammatory language, right?

12:12PM 11 A. Yes.

12:12PM 12 Q. And you do that a lot, right?

12:12PM 13 A. Yes.

12:12PM 14 Q. "And I have great love and respect for him and Blaze,"  
12:13PM 15 was that true?

12:13PM 16 A. Was it true that I wrote that? Yes.

12:13PM 17 Q. Was it true? Did you have love and respect for these  
12:13PM 18 two guys?

12:13PM 19 A. I did.

12:13PM 20 Q. Back then, but it just went away. This was November of  
12:13PM 21 2014?

12:13PM 22 A. It went away after I come to believe they were  
12:13PM 23 responsible for murders.

12:13PM 24 Q. That is your belief, right?

12:13PM 25 A. Yes.

1 T. HALEY - RX BY MR. EASTON

12:13PM 2 Q. You came to that belief on your own?

12:13PM 3 A. No.

12:13PM 4 Q. You came to that as an opinion that you have?

12:13PM 5 MR. TRIPI: Objection.

12:13PM 6 THE COURT: I'm going to sustain the objection.

12:13PM 7 That means you can't answer it, Mr. Haley.

12:13PM 8 THE WITNESS: Thank you.

12:13PM 9 Q. "The burden they carry and the hours and hours of work  
12:13PM 10 they put in while the rest of us party is awesome." Is that  
12:13PM 11 true?

12:13PM 12 A. Yes.

12:13PM 13 Q. And they assumed a burden?

12:13PM 14 A. They did.

12:13PM 15 Q. And they assumed a burden. They were trying to reshape  
12:13PM 16 the Kingsman Motorcycle Club; is that correct?

12:13PM 17 A. Yes.

12:13PM 18 Q. And reshape it from Spry, correct?

12:13PM 19 A. Yes.

12:13PM 20 Q. And even you will concede that Spry was running a core  
12:13PM 21 results organization?

12:13PM 22 A. Yes.

12:13PM 23 Q. And Mr. Pirk was trying to make it a better  
12:14PM 24 organization?

12:14PM 25 A. Yes.

1 T. HALEY - RX BY MR. EASTON

12:14PM 2 Q. And not necessarily more violent, but he wanted to  
12:14PM 3 stand up to pressures from the outside, right?

12:14PM 4 MR. TRIPI: Objection as to what Pirk wanted.

12:14PM 5 THE COURT: I'll allow it. Overruled.

12:14PM 6 Q. Well, we had to become more violent to stand up? But  
12:14PM 7 you had to become strong?

12:14PM 8 A. Yes.

12:14PM 9 Q. You didn't necessarily have to resort to violence,  
12:14PM 10 right?

12:14PM 11 A. No. That is inaccurate. You're not going to stand up  
12:14PM 12 against all of the other guys if you're not willing to be  
12:14PM 13 violent.

12:14PM 14 Q. Well, you have to be perceived as strong, right?

12:14PM 15 A. Yes.

12:14PM 16 Q. Have you ever shot anyone as a Kingsmen?

12:14PM 17 A. No.

12:14PM 18 Q. Has Mr. Pirk ever ordered you to kill anyone?

12:14PM 19 A. No.

12:14PM 20 Q. You don't have to do that, right?

12:14PM 21 A. No.

12:14PM 22 Q. And you know that?

12:14PM 23 A. Right.

12:14PM 24 Q. And you are not implying that Mr. Pirk ever did that in  
12:14PM 25 your presence, right?

1 T. HALEY - RX BY MR. EASTON

12:14PM 2 A. Absolutely not.

12:14PM 3 Q. And as stated, you often talk tough and make up stories  
12:14PM 4 when you speak to newer members, essentially to embellish your  
12:15PM 5 reputation and your persona?

12:15PM 6 A. Yes.

12:15PM 7 Q. And you're mindful that you're one of the long-term  
12:15PM 8 members along with Pirk. No one could dispute your claims?

12:15PM 9 A. Yes.

12:15PM 10 Q. When you came back in 2012, you enjoyed seeing the KMC  
12:15PM 11 get some credibility from tougher guys in the club, right?

12:15PM 12 A. Yes.

12:15PM 13 Q. There was a new leadership?

12:15PM 14 A. Yes.

12:15PM 15 Q. And it was going to be strong?

12:15PM 16 A. Yes.

12:15PM 17 Q. Not export violence out there but strong enough to keep  
12:15PM 18 violence from them?

12:15PM 19 MR. TRIPI: Objection. Argument.

12:15PM 20 THE COURT: Sustained.

12:15PM 21 Q. But you enjoyed this because this allowed the KMC to  
12:15PM 22 gain a reputation that you personally benefited from as a KMC  
12:15PM 23 member and you didn't have to get your hands dirty to get that  
12:15PM 24 reputation; is that true?

12:15PM 25 A. Yes.

1 T. HALEY - RX BY MR. EASTON

12:15PM 2 Q. Now, you, on your direct testimony, you described the  
12:16PM 3 Kingsmen as a collection of gangsters and tough guys; is that  
12:16PM 4 right?

12:16PM 5 A. Yes.

12:16PM 6 Q. You say the Kingsman Motorcycle Club, when you were in  
12:16PM 7 it, and I'll direct your time period to like 2015, before then  
12:16PM 8 -- well, strike that.

12:16PM 9 You left the Kingsman Motorcycle Club in August of  
12:16PM 10 2015; is that right.

12:16PM 11 A. Yes.

12:16PM 12 Q. And you were thrown out by Mr. Pirk, right?

12:16PM 13 A. No, I wasn't thrown out. I walked away after a  
12:16PM 14 meeting.

12:16PM 15 Q. Well, he informed you in August of 2015, you were out  
12:16PM 16 because you had posted stuff on Facebook?

12:16PM 17 MR. TRIPI: Objection.

12:16PM 18 THE COURT: If you're going to read from it, I'll  
12:16PM 19 sustain the objection. It's not in evidence.

12:16PM 20 Q. Okay. In August of 2015, did Mr. Pirk ask you to leave  
12:17PM 21 the Kingsmen because of things you posted on Facebook?

12:17PM 22 A. No.

12:17PM 23 Q. He didn't?

12:17PM 24 A. No, called me into a meeting.

12:17PM 25 Q. And didn't he say to you that you were posting stuff on



1 T. HALEY - RX BY MR. EASTON

12:17PM 2 Facebook that he didn't like and then you left the Kingsmen  
12:17PM 3 because of that?

12:17PM 4 A. Yes. Well, it was a collection of things, not because  
12:17PM 5 of just that. There was two events that were going on that  
12:17PM 6 caused me to leave the Kingsmen.

12:17PM 7 Q. But he asked you to leave, Mr. Pirk?

12:17PM 8 A. No. I said I'm done with all this crap if that is how  
12:17PM 9 you feel, and I walked away.

12:17PM 10 Q. And it was after?

12:17PM 11 A. And they started telling people that they asked me to  
12:17PM 12 leave.

12:17PM 13 Q. And you walked out and it was because of things that  
12:18PM 14 you were posting on Facebook?

12:18PM 15 A. Yes.

12:18PM 16 MR. TRIPI: Objection. Judge, briefly.

12:18PM 17 (Whereupon, a sidebar discussion was held on the  
12:18PM 18 record.)

12:18PM 19 MR. TRIPI: This is creating the unfair impression  
12:18PM 20 what he is posting on Facebook is Pirk and Enix are responsible  
12:18PM 21 for murders after the verdict that happened and he is creating  
12:18PM 22 the impression that he is thrown out for calling it a  
12:18PM 23 one-percent club and leaving me no recourse here. So I don't  
12:18PM 24 think this is fair.

12:18PM 25 MR. EASTON: I'm not.

1 T. HALEY - RX BY MR. EASTON

12:18PM 2 THE COURT: That is the implication and we all  
12:18PM 3 know that the reason that he was posting those was about Pirk  
12:18PM 4 and Enix.

12:18PM 5 MR. TRIPI: This is not fair play at all.

12:18PM 6 THE COURT: I'm going to give an instruction that  
12:18PM 7 the posts were not -- I think you need to clarify that the  
12:18PM 8 postings on Facebook were not about the organization becoming a  
12:19PM 9 one-percent club.

12:19PM 10 MR. EASTON: All right. I can do that.

12:19PM 11 (Proceeding continued.)

12:19PM 12 THE COURT: Go ahead, Mr. Easton.

12:19PM 13 Q. In August of 2015, you left the Kingsmen; is that  
12:19PM 14 correct?

12:19PM 15 A. Yes.

12:19PM 16 Q. And you did have discussions with Mr. Pirk, right?

12:19PM 17 A. Yes.

12:19PM 18 Q. And these discussions were he was dissatisfied, right?

12:19PM 19 A. Yes.

12:19PM 20 Q. But we're not -- it wasn't regarding one-percent  
12:19PM 21 characterizations or things like that, right?

12:19PM 22 A. No.

12:19PM 23 Q. He was dissatisfied with you for a number of reasons?

12:19PM 24 A. Yes.

12:19PM 25 Q. And you left at that point?

1 T. HALEY - RX BY MR. EASTON

12:19PM 2 A. Yes.

12:19PM 3 Q. And you didn't come back to the Kingsmen until after  
12:19PM 4 Mr. Pirk was arrested; is that correct?

12:19PM 5 A. Yes.

12:19PM 6 Q. Now, you did describe -- I was going to get into this.  
12:19PM 7 The Kingsmen Motorcycle Club on direct, on redirect  
12:20PM 8 examination, you characterized it as a collection of gangsters  
12:20PM 9 and tough guys; is that true?

12:20PM 10 A. I keep trying to explain. I characterized it -- there  
12:20PM 11 was a group within the club that was a collection of gangsters  
12:20PM 12 and tough guys.

12:20PM 13 Q. So you're saying that the Kingsmen Motorcycle Club as  
12:20PM 14 an entity was not a collection of tough guys --

12:20PM 15 A. That --

12:20PM 16 Q. -- or gangsters, but there was a sub group in it that  
12:20PM 17 were tough guys and/or gangsters?

12:20PM 18 A. No.

12:20PM 19 MR. TRIPI: Objection as to subgroup.

12:20PM 20 THE COURT: Overruled.

12:20PM 21 Wait a minute. The answer was "no."

12:20PM 22 A. I don't even know the question now.

12:20PM 23 THE COURT: Was there a subgroup of tough guys and  
12:20PM 24 gangsters?

12:20PM 25 THE WITNESS: Yes.

1 T. HALEY - RX BY MR. EASTON

12:20PM 2 Q. And gangsters and tough guys, they are a little  
12:20PM 3 different, right?

12:20PM 4 A. Very.

12:20PM 5 Q. Gangster would be a criminal?

12:21PM 6 THE COURT: Mr. Haley, wait until he finishes the  
12:21PM 7 question.

12:21PM 8 Q. A gangster would be a criminal, right?

12:21PM 9 MR. TRIPI: Objection.

12:21PM 10 MR. EASTON: I'll rephrase.

12:21PM 11 Q. What do you mean by a gangster?

12:21PM 12 A. I mean it was currently a popular term used in  
12:21PM 13 everything from rap music to referring to guys that were  
12:21PM 14 committing illegal acts that covered a wide spectrum of guys  
12:21PM 15 that were living outside of the bounds of normal laws.

12:21PM 16 Q. So not necessarily a criminal, but someone holding  
12:21PM 17 himself out to be of a certain reputation and perception,  
12:21PM 18 right?

12:21PM 19 A. Yes.

12:21PM 20 Q. A tough guy is a little different than that, right.

12:21PM 21 A. Yes.

12:21PM 22 Q. That is not really -- that is so much internal  
12:21PM 23 fortitude and standing upness, right?

12:21PM 24 A. Yes.

12:21PM 25 Q. And there were members of the Kingsmen that were tough

1 T. HALEY - RX BY MR. EASTON

12:21PM 2 guys?

12:21PM 3 A. Yes.

12:21PM 4 Q. And that was important to them, right?

12:21PM 5 A. Yes.

12:21PM 6 Q. Yourself?

12:21PM 7 A. Yes.

12:21PM 8 Q. Is it important to yourself?

12:21PM 9 A. Yes.

12:21PM 10 Q. And you hold yourself out to be a tough guy, right?

12:22PM 11 A. Yes.

12:22PM 12 Q. Not necessarily a gangster, right?

12:22PM 13 A. No, but tough guy.

12:22PM 14 Q. And Mr. Pirk, he is a tough guy, right?

12:22PM 15 A. Yes.

12:22PM 16 Q. He carries himself with a certain composure?

12:22PM 17 A. Yes.

12:22PM 18 Q. And there are plenty of Kingsmen -- well, strike that.

12:22PM 19 There were some Kingsmen that were holding themselves out to be  
12:22PM 20 gangsters and wanted to be gangsters, right?

12:22PM 21 A. Yes.

12:22PM 22 Q. And prominent of that group are Special Ed and Caruso  
12:22PM 23 and others like of their adherence, people that looked up to  
12:22PM 24 them?

12:22PM 25 MR. TRIPI: Objection. Beyond the scope of

1 T. HALEY - RX BY MR. EASTON

12:22PM 2 direct.

12:22PM 3 THE COURT: Overruled. You asked him.

12:22PM 4 MR. TRIPI: Redirect.

12:22PM 5 THE COURT: You asked him about the gangsters and  
12:22PM 6 tough guys on redirect. Overruled.

12:22PM 7 Q. So there are other people there that sort of followed  
12:22PM 8 Special Ed over to the Nickel City Nomads and Special Ed the  
12:23PM 9 Outlaws, right?

12:23PM 10 MR. TRIPI: Objection. Beyond the scope of  
12:23PM 11 redirect.

12:23PM 12 THE COURT: Sustained.

12:23PM 13 Q. Now, you testified on redirect to a discussion that you  
12:23PM 14 had with Mr. Pirk after that South Buffalo confrontation in  
12:23PM 15 August of 2014 that you witnessed or that you witnessed some  
12:23PM 16 part of it, right?

12:23PM 17 A. Yes.

12:23PM 18 Q. And you had a meeting with -- you talked to him  
12:23PM 19 numerous times in Florida, right?

12:23PM 20 A. Yes.

12:23PM 21 Q. And you recounted one of them on redirect testimony  
12:23PM 22 where you testified that Mr. Pirk had said that at one point in  
12:23PM 23 this conversation, that Special Ed -- I think it was just  
12:23PM 24 Special Ed or Special Ed and Caruso ought to be whacked, ought  
12:23PM 25 to be or should have been?

1 T. HALEY - RX BY MR. EASTON

12:24PM 2 A. Yes.

12:24PM 3 Q. And if he had his gun, it never would have happened?

12:24PM 4 A. Two different conversations. If I had my gun,  
12:24PM 5 connotation was as he walked down from the upstairs in Buffalo,  
12:24PM 6 speaking, they never would have been able to trap them in the  
12:24PM 7 room. He would have been free to walk out if he had his gun.

12:24PM 8 Q. That was your interpretation of his remark, then?

12:24PM 9 A. Yes.

12:24PM 10 Q. And your interpretation as you said yesterday, that  
12:24PM 11 didn't mean he was going to shoot them?

12:24PM 12 A. No.

12:24PM 13 Q. And did you interpret the comment that they should have  
12:24PM 14 been whacked to be that he wanted to assassinate, to kill them?

12:24PM 15 A. I interpreted that was the level of frustration, but  
12:24PM 16 not to shoot them.

12:24PM 17 Q. And that he was angry one of them brandished a  
12:24PM 18 Kel-Tech?

12:24PM 19 A. Specifically because it was the guy he backed.

12:24PM 20 Q. Even if he didn't back them independent of them, it  
12:24PM 21 might be something that might inspire a level of anger and  
12:25PM 22 frustration; is that right?

12:25PM 23 A. Yes.

12:25PM 24 Q. And also, in this meeting, he was talking about  
12:25PM 25 throwing them out because they are drug users or going to the

1 T. HALEY - RX BY MR. EASTON

12:25PM 2 police and showing them they are drug dealers and users, right?

12:25PM 3 A. This was the meeting where we were talking about how to  
12:25PM 4 get rid of these guys without addressing the fight or the  
12:25PM 5 confrontation in Buffalo.

12:25PM 6 Q. And get them out of KMC?

12:25PM 7 A. Right.

12:25PM 8 Q. And Mr. Pirk wanted them out of the KMC?

12:25PM 9 A. Yes.

12:25PM 10 Q. He wanted them out for nearly a year at that point?

12:25PM 11 MR. TRIPI: Objection.

12:25PM 12 THE COURT: Sustained.

12:25PM 13 Q. He wanted Special Ed out before?

12:25PM 14 A. Yes.

12:25PM 15 MR. TRIPI: Objection.

12:25PM 16 THE COURT: Sustained. You can ask him about what  
12:25PM 17 he said to him, but asking what Mr. Pirk or what his  
12:26PM 18 understanding of what Mr. Pirk wanted, I'm going to sustain,  
12:26PM 19 asking this witness whether or not Mr. Pirk wanted.

12:26PM 20 Q. What was your understanding about Mr. Pirk and what he  
12:26PM 21 wanted to have done with Special Ed?

12:26PM 22 A. At which point in time?

12:26PM 23 Q. Let's go back from late December of 2014. He wanted  
12:26PM 24 him out of the club; is that correct?

12:26PM 25 A. I believe that was around that time, yes.



1

T. HALEY - RX BY MR. EASTON

12:26PM 2

Q. And then after this meeting in August of 2014, is it

12:26PM 3

fair to say that that desire he expressed it to you, everyone,

12:26PM 4

in more strong terms?

12:26PM 5

A. Yes.

12:26PM 6

Q. He wanted him out?

12:26PM 7

A. Yes.

12:26PM 8

Q. Of the club?

12:26PM 9

A. Yes.

12:26PM 10

Q. He didn't say he wanted him killed, right?

12:26PM 11

A. Not ever again.

12:26PM 12

Q. But that was "they ought to be whacked," right?

12:26PM 13

A. "I ought to have them whacked."

12:26PM 14

Q. And that was in the context of a lot of things he said,

12:26PM 15

right, at that meeting?

12:26PM 16

A. Yes.

12:27PM 17

Q. Many of which, and even you characterized he was

12:27PM 18

frustrated and angry at that meeting?

12:27PM 19

A. Yes.

12:27PM 20

Q. On redirect, Mr. Tripi displayed to you the Facebook

12:27PM 21

message, that of August -- I think it was August 31st of 2014?

12:27PM 22

MR. TRIPI: You want it up, 153.8, page 5.

12:27PM 23

MR. EASTON: Thank you, Ms. Prawel.

12:28PM 24

Q. You recall this message is --

12:28PM 25

MR. EASTON: I think what was the exhibit, Ms.

1 T. HALEY - RX BY MR. EASTON

12:28PM 2 Prawel.

12:28PM 3 MS. PRAWEL: 153.8.

12:28PM 4 MR. EASTON: And fifth page.

12:28PM 5 MS. PRAWEL: Yes.

12:28PM 6 Q. You recall that document?

12:28PM 7 A. Yes.

12:28PM 8 Q. That is the document that you acknowledge that you read  
12:28PM 9 soon thereafter it was posted on the 31st, right?

12:28PM 10 A. Yes.

12:28PM 11 Q. And you responded to it by saying "other guys don't  
12:28PM 12 have bikes," right?

12:28PM 13 A. Yes.

12:28PM 14 Q. But fair to say that you know in Florida with maybe the  
12:28PM 15 exception of Uncle Sean, who was sort of a beloved guy that had  
12:29PM 16 problem people in the Florida membership, they all had bikes or  
12:29PM 17 trikes, right?

12:29PM 18 A. Not that they owned. Several guys were riding bikes  
12:29PM 19 that other people owned.

12:29PM 20 Q. So he has had no bike for a while and behind in dues  
12:29PM 21 and the way he is thinking and feels about things is not in the  
12:29PM 22 best interest of the Kingsmen. He is out. He is not "out  
12:29PM 23 bad," but he is out?

12:29PM 24 A. Right.

12:29PM 25 Q. And when you got the message, you then expressed some

1 T. HALEY - RX BY MR. EASTON

12:29PM 2 concern, saying that is not fair because other people don't  
12:29PM 3 have bikes, right?

12:29PM 4 A. That was one of the things that struck me as odd about  
12:29PM 5 the e-mail, yes.

12:29PM 6 Q. And I think you testified on direct -- well, you took  
12:29PM 7 those concerns -- did you take those concerns to Mr. Pirk?

12:29PM 8 A. I posted something on Facebook about why.

12:30PM 9 Q. You know Mr. Pirk, you just told us he has very limited  
12:30PM 10 capacity on Facebook, right?

12:30PM 11 A. Yes.

12:30PM 12 Q. But you took your concern directly to Emmett Green,  
12:30PM 13 right?

12:30PM 14 A. Emmett is the one that responded when I posted it.

12:30PM 15 Q. He responded back to you?

12:30PM 16 A. Yes.

12:30PM 17 Q. And he responded it's above your pay grade or something  
12:30PM 18 like that?

12:30PM 19 A. Yes.

12:30PM 20 Q. Now, Mr. Tripi went over with you your plea agreement  
12:30PM 21 or certain portions of it; is that right?

12:30PM 22 A. Yes.

12:30PM 23 Q. And one of them concerned substantial assistance,  
12:30PM 24 right?

12:30PM 25 A. Yes.

1 T. HALEY - RX BY MR. EASTON

12:30PM 2 Q. And part of your plea agreement is that you are to  
12:30PM 3 provide substantial assistance, right, to get the benefit of  
12:30PM 4 your cooperation agreement?

12:31PM 5 A. That was to testify truthfully, honestly and not  
12:31PM 6 withhold anything, and they would determine if that was  
12:31PM 7 substantial enough assistance.

12:31PM 8 Q. They, the government?

12:31PM 9 A. Yes.

12:31PM 10 Q. Would make a motion?

12:31PM 11 A. Or petition.

12:31PM 12 Q. And determine if that was substantial assistance?

12:31PM 13 A. Yes.

12:31PM 14 Q. And that is pursuant to the law?

12:31PM 15 A. Yes.

12:31PM 16 Q. And pursuant to your obligations?

12:31PM 17 A. Yes.

12:31PM 18 Q. And you know the government has that authority and  
12:31PM 19 responsibility?

12:31PM 20 A. Yes.

12:31PM 21 Q. And you're very aware of it, right?

12:31PM 22 A. Yes.

12:31PM 23 Q. Over the last few days, you became aware of it?

12:31PM 24 A. Yes.

12:31PM 25 Q. And that is with discussions with the government?

1 T. HALEY - RX BY MR. EASTON

12:31PM 2 A. Yes.

12:31PM 3 Q. And your lawyer?

12:31PM 4 A. Yes.

12:31PM 5 Q. And you're aware?

12:31PM 6 A. Not with my lawyer, in the last few days about that.

12:31PM 7 Q. But you had discussions with your lawyer?

12:31PM 8 A. Yes.

12:31PM 9 Q. And you testified how you're testifying under those  
12:31PM 10 conditions right now, right?

12:31PM 11 A. Yes.

12:31PM 12 Q. And that you talked to us about how hard and difficult  
12:31PM 13 it is for you to testify?

12:31PM 14 A. Yes.

12:31PM 15 Q. And it's hard and difficult for you to sit in that  
12:32PM 16 seat, right?

12:32PM 17 A. Yes, yes.

12:32PM 18 Q. And it's hard and difficult to say things about David  
12:32PM 19 Pirk that you've known for 40 years?

12:32PM 20 A. Yes.

12:32PM 21 Q. And it's hard for you and difficult in that seat,  
12:32PM 22 right?

12:32PM 23 A. Yes.

12:32PM 24 Q. And it would be hard and difficult?

12:32PM 25 MR. TRIPI: Objection.

1 T. HALEY - RX BY MR. EASTON

12:32PM 2 THE COURT: Sustained.

12:32PM 3 MR. EASTON: Nothing further.

12:32PM 4 THE COURT: Thank you, Mr. Easton. Mr. Covert, do  
12:32PM 5 you have any recross?

12:32PM 6 MR. COVERT: No, your Honor.

12:32PM 7 THE COURT: Mr. Grable?

12:32PM 8 MR. GRABLE: Thank you, your Honor.

12:32PM 9 RECROSS EXAMINATION BY MR. GRABLE:

12:32PM 10 Q. Mr. Haley, when Mr. Tripi got up and talked to you  
12:32PM 11 about the differences between New York and Florida, you  
12:32PM 12 remember him asking you those questions?

12:32PM 13 A. Yes.

12:32PM 14 Q. And he asked you about Springville and you became aware  
12:32PM 15 of violence taking place in Springville, New York. Remember  
12:32PM 16 him talking about that?

12:32PM 17 A. Yes.

12:32PM 18 Q. And then he said if a Florida chapter, for example  
12:33PM 19 Sumter County, were having issues, you would expect the same  
12:33PM 20 result. Remember that question?

12:33PM 21 A. Yes.

12:33PM 22 Q. And that's a fantasy. There was no violence among the  
12:33PM 23 chapters and clubhouses in Florida, correct?

12:33PM 24 A. None.

12:33PM 25 Q. So when Mr. Tripi asked you that question, that was a

1 T. HALEY - RX BY MR. EASTON

12:33PM 2 pure bit of fantasy, right?

12:33PM 3 A. I don't know if fantasy is the right word. It was not  
12:33PM 4 accurate that there, the chapters in Florida were essentially  
12:33PM 5 behind Pirk.

12:33PM 6 Q. And then do you remember that Plaintiff Tripi asked  
12:33PM 7 some questions about drugs in Tennessee for Outlaw meetings.  
12:33PM 8 Remember that?

12:33PM 9 A. Yes.

12:33PM 10 Q. What he didn't ask you was the guys who brought guns to  
12:33PM 11 the meeting, every one of them had a legal carry permit to  
12:33PM 12 bring them, correct?

12:33PM 13 A. Yes.

12:33PM 14 Q. And he asked you about were there guys ready to shoot.  
12:33PM 15 Remember him asking you that?

12:33PM 16 A. Yes.

12:33PM 17 Q. And you certainly don't know or you're not capable nor  
12:33PM 18 any of us are capable of thinking what someone is thinking at  
12:34PM 19 any period of time?

12:34PM 20 A. I'm referring to the conversations.

12:34PM 21 Q. The reality is there was no shooting in Tennessee?

12:34PM 22 A. That's correct.

12:34PM 23 Q. And the notion that there was shooting in Tennessee  
12:34PM 24 would be fantasy?

12:34PM 25 A. If someone suggested there was shooting, yes.

1 T. HALEY - RX BY MR. EASTON

12:34PM 2 Q. And in fact, a big part of the reason that there was no  
12:34PM 3 shooting in Tennessee was because of Tim Enix, correct?

12:34PM 4 A. Absolutely.

12:34PM 5 Q. And do you remember Mr. Tripi asked you some questions  
12:34PM 6 again about the word "peacemaker"?

12:34PM 7 A. Yes.

12:34PM 8 Q. And he asked you whether someone in Florida got to you?  
12:34PM 9 Remember him asking you that?

12:34PM 10 A. Yes.

12:34PM 11 Q. That is pure fantasy?

12:34PM 12 MR. TRIPI: Objection to fantasy. What does that  
12:34PM 13 mean?

12:34PM 14 THE COURT: Overruled.

12:34PM 15 A. It's absolutely inaccurate.

12:34PM 16 Q. Because nobody got to you, correct?

12:34PM 17 A. No.

12:34PM 18 Q. When what you did when you were testifying yesterday  
12:34PM 19 and the subject came up where you testified about Mr. Enix  
12:34PM 20 coming a peacemaker, you did your best about giving truthful  
12:35PM 21 testimony based on the question that Mr. Tripi asked you,  
12:35PM 22 correct?

12:35PM 23 A. Yes.

12:35PM 24 Q. And Mr. Tripi talked to you about the various proffers  
12:35PM 25 that you engaged with the government. On various occasions at



1 T. HALEY - RX BY MR. EASTON

12:35PM 2 any one of the proffers ever, did the government ever bother to  
12:35PM 3 ask you if Tim Enix was a peacemaker?

12:35PM 4 A. No.

12:35PM 5 Q. Had they asked you that question, wouldn't you have  
12:35PM 6 told him he is?

12:35PM 7 A. No.

12:35PM 8 Q. You would say something consistent with what you said  
12:35PM 9 under oath in the courtroom if you were asked the question,  
12:35PM 10 correct?

12:35PM 11 MR. TRIPI: Objection. Asked and answered.

12:35PM 12 THE COURT: Overruled.

12:35PM 13 A. And the question was was Tim Enix a peacemaker, and I  
12:35PM 14 said, "yes, he was a peacemaker."

12:35PM 15 Q. And back on your direct testimony, he certainly didn't  
12:35PM 16 tell you the word "peacemaker"?

12:35PM 17 A. Not that I recall.

12:35PM 18 Q. That was your word that you gave in response to his  
12:35PM 19 question, right?

12:35PM 20 A. Yes.

12:35PM 21 Q. And then do you recall whether you used that word and  
12:35PM 22 Mr. Tripi, on direct examination, asked you about drugs and you  
12:36PM 23 answered about Mr. Enix wanting drug dealers out of the club,  
12:36PM 24 remember that?

12:36PM 25 A. Yes.

1 T. HALEY - RX BY MR. EASTON

12:36PM 2 Q. And that was the point in time again when we took a  
12:36PM 3 break, correct?

12:36PM 4 A. Yes.

12:36PM 5 Q. And you got taken out into the hall, right?

12:36PM 6 A. Yes.

12:36PM 7 MR. TRIPI: Objection. Nobody took anyone out in  
12:36PM 8 the hall.

12:36PM 9 THE COURT: Sustained.

12:36PM 10 Q. In any event, when you were giving that testimony, you  
12:36PM 11 told us yesterday that you had a recollection that Mr. Tripi  
12:36PM 12 started to yell at you. Remember that?

12:36PM 13 MR. TRIPI: Objection. I never yelled at him.

12:36PM 14 THE COURT: Overruled.

12:36PM 15 A. Yes.

12:36PM 16 Q. And he was just yelling at you a little bit ago on your  
12:36PM 17 redirect.

12:36PM 18 A. He was very firm.

12:36PM 19 Q. And then he went through telling you what the law  
12:36PM 20 requires as far as substantial assistance is concerned,  
12:36PM 21 correct?

12:36PM 22 A. Yes.

12:36PM 23 Q. And he read to you various provisions from federal law  
12:36PM 24 regarding what the notion of substantial assistance is. He  
12:36PM 25 read that to you, right?

1 T. HALEY - RX BY MR. EASTON

12:36PM 2 A. Yes.

12:36PM 3 Q. What he didn't read to you, paragraph 24 of your plea  
12:37PM 4 agreement, 3589.5, which says should the government determine  
12:37PM 5 the defendant has provided substantial assistance. He didn't  
12:37PM 6 read that to you, did he?

12:37PM 7 MR. TRIPI: Objection. We covered that the first  
12:37PM 8 day.

12:37PM 9 MR. GRABLE: I'm talking about redirect.

12:37PM 10 MR. TRIPI: 106.

12:37PM 11 THE COURT: Read the whole thing if you're going  
12:37PM 12 to read it.

12:37PM 13 MR. GRABLE: I will. You can read along with me.  
12:37PM 14 Upon condition that the defendant has fully complied with all  
12:37PM 15 terms and conditions of this agreement, should the government  
12:37PM 16 determine that the defendant has provided substantial  
12:37PM 17 assistance in the investigation or prosecution of other persons  
12:37PM 18 who have committed offenses, the government will move the Court  
12:37PM 19 at sentencing to depart downward from the Guidelines at least  
12:37PM 20 four levels as provided for in Guideline section 5K1.1, which  
12:37PM 21 if granted by the Court, would result in a total offense level  
12:38PM 22 of 12 and a sentencing range of 10 to 16 months' imprisonment.  
12:38PM 23 Did I read that correctly?

12:38PM 24 A. Yes.

12:38PM 25 Q. And that is, in fact, the truth, that the government

1 T. HALEY - RX BY MR. EASTON

12:38PM 2 will make the determination whether anyone should ask the  
12:38PM 3 Court. And when I say anyone, it would be the government, if  
12:38PM 4 anyone were to give you the benefit of substantial assistance,  
12:38PM 5 correct?

12:38PM 6 A. Yes.

12:38PM 7 Q. And you understand from Mr. Tripi shouting at you that  
12:38PM 8 you better say what the government wants you to say?

12:38PM 9 MR. TRIPI: Objection. I did not shout and he  
12:38PM 10 can't determine what I was doing.

12:38PM 11 THE COURT: I'll overrule it.

12:38PM 12 A. Are you suggesting that Joe Tripi intimidated me into  
12:38PM 13 an answer?

12:38PM 14 Q. No. I'm suggesting that when you gave the testimony on  
12:38PM 15 the first day of testimony and you answered that Mr. Enix was a  
12:38PM 16 peacemaker, Mr. Tripi was asking you questions that were  
12:38PM 17 open-ended, right?

12:38PM 18 A. Yes.

12:38PM 19 Q. And then when you gave testimony a few minutes ago on  
12:38PM 20 the redirect in response to the redirect, he was telling you  
12:38PM 21 what the answers were?

12:38PM 22 MR. TRIPI: Objection.

12:39PM 23 THE COURT: Overruled.

12:39PM 24 Q. He was leading you?

12:39PM 25 A. They were leading and open-ended questions.

1 T. HALEY - RX BY MR. EASTON

12:39PM 2 Q. He was putting the words in your mouth?

12:39PM 3 A. Absolutely not.

12:39PM 4 Q. And you know from the experience of the last two days  
12:39PM 5 that you had some concern at some point that your benefit for  
12:39PM 6 substantial assistance might be slipping away, correct?

12:39PM 7 MR. TRIPI: Objection, beyond the scope.

12:39PM 8 THE COURT: Overruled.

12:39PM 9 A. You, sir, made that very clear to me.

12:39PM 10 Q. And that was something that became of great concern to  
12:39PM 11 you?

12:39PM 12 A. Of course.

12:39PM 13 Q. And it was still a source of concern when Mr. Tripi  
12:39PM 14 stood up and asked you redirect questions?

12:39PM 15 A. It is as I sit here now.

12:39PM 16 Q. And Mr. Tripi asked you during your redirect about Tank  
12:39PM 17 Enix. Do you remember him asking you about that?

12:39PM 18 A. Yes.

12:39PM 19 Q. And that is Mr. Enix's son, correct?

12:39PM 20 A. Yes.

12:39PM 21 Q. And there are three defendants in this courtroom,  
12:39PM 22 correct?

12:39PM 23 A. Yes.

12:39PM 24 Q. And Tank Enix is not one of them, is he?

12:39PM 25 A. I guess.

1 T. HALEY - RX BY MR. EASTON

12:39PM 2 Q. Tank Enix is not a defendant in this courtroom, is he?

12:40PM 3 A. No.

12:40PM 4 Q. And, now, Mr. Tripi didn't ask you a single question  
12:40PM 5 ever during his redirect about whether Mr. Enix ever dealt  
12:40PM 6 drugs, did he?

12:40PM 7 A. No.

12:40PM 8 Q. Because the answer to that question would be no,  
12:40PM 9 correct?

12:40PM 10 A. Yes.

12:40PM 11 Q. And did you have discussions with Mr. Tripi on Sunday  
12:40PM 12 night or Monday in preparation for testimony about Tank Enix?

12:40PM 13 A. No.

12:40PM 14 Q. And you did during your communications with the  
12:40PM 15 government truthfully, you relayed that Mr. Enix hadn't dealt  
12:40PM 16 drugs?

12:40PM 17 A. I don't think it came up. I don't think they asked me  
12:40PM 18 if Tim Enix dealt drugs. I'm telling you no.

12:40PM 19 Q. And he didn't, right?

12:40PM 20 A. No.

12:40PM 21 Q. And instead of on Mr. Tripi's redirect, we're talking  
12:40PM 22 about Tank Enix, correct?

12:40PM 23 A. Yes.

12:40PM 24 MR. GRABLE: No further questions.

12:40PM 25 THE COURT: Let's take a short break. I remind

1 USA VS. D. PIRK, A. JENKIN & T. ENIX

12:40PM 2 you, don't talk about the case among yourselves or with anyone  
12:41PM 3 else. And we'll see you back here shortly.

12:41PM 4 THE WITNESS: Am I free to go?

12:41PM 5 (Whereupon, the witness exits the courtroom.)

12:41PM 6 MR. TRIPI: I think that last little bit has  
12:41PM 7 forfeited your right to not give the instruction that I'm  
12:41PM 8 permitted to lead, I want the instruction given.

12:41PM 9 THE COURT: I will give an instruction about that.  
12:41PM 10 I guess I want to make sure that what I'm saying is the right  
12:42PM 11 thing to say. I will give that instruction. I'll give the  
12:42PM 12 instruction before the final charge, but I would like to come  
12:42PM 13 up with something as opposed to doing it off the top of my head  
12:42PM 14 in the event there are objections to what is said.

12:42PM 15 MR. COVERT: Would we include, then, that the  
12:42PM 16 government was permitted to lead after he was deemed a hostile  
12:42PM 17 witness?

12:42PM 18 THE COURT: Perhaps. You know, let me work on  
12:42PM 19 something and I'll run it by you. Let's talk about Mr. Green.  
12:42PM 20 I had said beforehand I was going to split up the remaining  
12:42PM 21 time. That gives each of you 20 minutes and that is going a  
12:42PM 22 little past 2. Would the government -- you going to be able to  
12:42PM 23 do that?

12:42PM 24 MS. SHELVEY: Yes, your Honor. I want to  
12:42PM 25 highlight, there will be 801(d)(1)(B) statements that I would

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12:42PM 2 be making.

12:42PM 3 THE COURT: 801(d)(1)(B).

12:42PM 4 MS. SHELVEY: Prior consistent statements.

12:43PM 5 THE COURT: When are they made?

12:43PM 6 MS. SHELVEY: Prior to his testifying.

12:43PM 7 THE COURT: Prior to the motive to fabricate?

12:43PM 8 MS. SHELVEY: They were made prior to the  
12:43PM 9 motivation to fabricate. As counsel was implying, was to get a  
12:43PM 10 5K departure, and then as part of his testimony today, anything  
12:43PM 11 that he testified to and/or told law enforcement prior to this  
12:43PM 12 testimony here in court.

12:43PM 13 THE COURT: No, it's got to be prior to when he  
12:43PM 14 entered into the agreement with the government.

12:43PM 15 MR. TRIPI: Judge, can we briefly, just chat?

12:44PM 16 MS. SHELVEY: Your Honor, Mr. Connors, in his  
12:44PM 17 cross-examination, pointed counsel -- first, he misstated the  
12:44PM 18 year and then we had the whole argument, but in the document,  
12:44PM 19 3527.14, Mr. Connors specifically pointed this witness and to  
12:44PM 20 the first page of the bottom up of page 1 and said you did not  
12:44PM 21 tell law enforcement that Timothy Enix was at that meeting.

12:44PM 22 THE COURT: Did he tell that?

12:44PM 23 MS. SHELVEY: Yes.

12:44PM 24 THE COURT: When did he say that he was there  
12:44PM 25 earlier?



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12:44PM 2 MS. SHELVEY: He said he was there earlier. The  
12:44PM 3 week before what counsel showed him, and in that actual  
12:44PM 4 document, he says that Timothy Enix was there that day.

12:44PM 5 THE COURT: If it's in the document itself, I  
12:44PM 6 don't even think it's an 801(d)(1)(B) issue. I think it's  
12:44PM 7 follow-up on what has already been elicited, but if there is a  
12:44PM 8 302 from before that document.

12:45PM 9 MS. SHELVEY: From April 26th of 2016. So a week  
12:45PM 10 before the document that called him.

12:45PM 11 MR. CONNORS: We should pull that out.

12:45PM 12 THE COURT: Let's pull it out.

12:45PM 13 MR. TRIPI: 3527.13 at page 7.

12:45PM 14 MS. SHELVEY: Some guys at the meeting, Kazoo,  
12:46PM 15 Free Fall, Blaze, who he identified as Timothy Enix and Tim  
12:46PM 16 Haley.

12:46PM 17 THE COURT: So I guess, Mr. Connors, the question  
12:46PM 18 is, do you dispute this reference coming, the all-hands  
12:46PM 19 meeting? That is what Mr. Connors had crossed on.

12:46PM 20 MR. CONNORS: Yes. I crossed him on the all  
12:46PM 21 hands.

12:46PM 22 THE COURT: I thought this witness was allegedly  
12:46PM 23 at the all-hands meeting and said he was there.

12:46PM 24 MR. CONNORS: Said there was no all-hands meeting.

12:46PM 25 THE COURT: But if Mr. Green, in fact, said at an

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12:46PM 2 earlier time than May of 2016 Blaze was at the all-hands  
12:46PM 3 meeting, my view is that comes in under 801(d)(1)(B), but we  
12:47PM 4 have to confirm that. Mr. Connors.

12:47PM 5 MS. SHELVEY: Just to complete that statement, the  
12:47PM 6 very first sentence of that that starts on page 6 says, "In the  
12:47PM 7 fall of 2013 when Pirk was President of Florida KMC and  
12:47PM 8 northern KMC members came to the Arcade KMC clubhouse for a  
12:47PM 9 meeting while the clubhouse was still located in Wood's garage,  
12:47PM 10 some of the guys who were there at the meeting were," and went  
12:47PM 11 through the list, so there is no question, and further goes on  
12:47PM 12 to talk about --

12:47PM 13 THE COURT: You don't have to.

12:47PM 14 MS. SHELVEY: It's clear from the context of that.

12:47PM 15 THE COURT: All right. I'll allow that. Mr.  
12:47PM 16 Connors, if you have an objection, you can make it. It's  
12:47PM 17 within 801(d)(1)(B).

12:47PM 18 MS. SHELVEY: Yes, your Honor. Another area that  
12:47PM 19 I anticipate where that will come up as well will you reference  
12:48PM 20 to, if I can have a moment. The Facebook -- I mean, excuse me,  
12:48PM 21 the conversations about Mr. Jenkins coming out and the  
12:48PM 22 subsequent Jenkins showing up at the clubhouse. Mr. Connors  
12:48PM 23 stated you never got a call from Blocker and you never reached  
12:48PM 24 Tim Enix on that day and time, on August 27th of 2015.

12:48PM 25 THE COURT: Well, what did he say in response to

1 USA VS. D. PIRK, A. JENKIN & T. ENIX

12:48PM 2 that?

12:48PM 3 MS. SHELVEY: His response was -- let me pull it  
12:48PM 4 up. I think he said -- I don't remember the exact phrase he  
12:48PM 5 used. He said, "I don't remember. There were a lot of  
12:48PM 6 conversations," but the implication is that this conversation  
12:48PM 7 did not exist. And on previous occasions, he made it clear in  
12:48PM 8 fact.

12:48PM 9 THE COURT: But to get it in under 801(d)(1)(B),  
12:48PM 10 you need to have testimony one way or the other. You can't  
12:49PM 11 then try to use proffers that he has given or statements that  
12:49PM 12 he has given earlier to suggest that that is the truth. That  
12:49PM 13 is not the proper use of it.

12:49PM 14 MS. SHELVEY: He went on to say that conversation  
12:49PM 15 never existed.

12:49PM 16 THE COURT: You're talking about Mr. Connors.  
12:49PM 17 What did Mr. Green say?

12:49PM 18 MS. SHELVEY: He then pulled up the phone records.  
12:49PM 19 This was a one-minute conversation. You got voice mail. You  
12:49PM 20 didn't speak to him. This didn't happen, and he said, I'm only  
12:49PM 21 going to refer to it, I'm not going to quote it, but there was  
12:49PM 22 a discussion about showing him the phone records and saying you  
12:49PM 23 didn't talk to him. You talked to Direct TV and that phone  
12:50PM 24 call never happened.

12:50PM 25 THE COURT: But what did Mr. Green say? Mr. Green

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12:50PM 2 never said the phone call never happened.

12:50PM 3 MS. SHELVEY: And you don't recall specifically  
12:50PM 4 reaching Tim Enix that day. I just don't recall reaching him.  
12:50PM 5 I don't know if it's that day on his statements to law  
12:50PM 6 enforcement. On three separate occasions, prior to pleading  
12:50PM 7 guilty, he told law enforcement it was Thursday, so that was  
12:50PM 8 September the 4th, consistent with the phone records.  
12:50PM 9 September 4th, he was called by Blocker that Jenkins was at  
12:50PM 10 Arcade, and as a result of that, he called Tim Enix to find out  
12:50PM 11 whether or not he was permitted.

12:50PM 12 THE COURT: But when did he make those statements  
12:50PM 13 to law enforcement?

12:50PM 14 MS. SHELVEY: He made those statements to law  
12:50PM 15 enforcement on August 27th of 2015, on May 4th of 2016 and on  
12:50PM 16 June 7th of 2016 is received as well as in the grand jury. But  
12:50PM 17 the gun was obviously after he pled. So the three prior would  
12:51PM 18 be prior to him pleading guilty and entering into a plea  
12:51PM 19 agreement with the government.

12:51PM 20 THE COURT: Mr. Connors?

12:51PM 21 MR. CONNORS: What he said was that he had a call  
12:51PM 22 from Blocker on September 4th. We pointed out to him that the  
12:51PM 23 records don't support that. And then he said, "I'm not sure of  
12:51PM 24 the day, I just don't know if it was that day. And I told the  
12:51PM 25 prosecutors I wasn't absolutely sure about that date." So I'm

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12:51PM 2 not sure the point of the prior consistent statement is  
12:51PM 3 appropriate. Under this analysis here, we're dealing with my  
12:51PM 4 cross on his phone records.

12:51PM 5 THE COURT: You're welcome to re-explore the area  
12:51PM 6 on redirect. I won't let you get in the prior consistent  
12:51PM 7 statement.

12:51PM 8 Anything else, Ms. Shelvey?

12:52PM 9 MS. SHELVEY: I want to check. I think those were  
12:52PM 10 the areas, your Honor.

12:52PM 11 THE COURT: I told you earlier you couldn't get in  
12:52PM 12 the conditions of release. I'm going to give you a time limit.  
12:52PM 13 If you want to spend your time going through the conditions of  
12:52PM 14 release, I'll allow it, not the conditions that he can't  
12:52PM 15 associate with victims or co-defendants, but can't associate  
12:52PM 16 with the Kingsman Motorcycle Club. The last, the motorcycle  
12:52PM 17 condition, that is at the end that is filled in.

12:52PM 18 MR. TRIPI: The one typed in, I won't go there.

12:52PM 19 THE COURT: So everybody is going to have 20  
12:52PM 20 minutes each. Hopefully we get through with it. If not, we'll  
12:52PM 21 bring him back tomorrow. I'll give you each 20 minutes to  
12:52PM 22 explore issues with Mr. Green. Is Mr. Green up here?

12:52PM 23 MR. TRIPI: Yes.

12:52PM 24 THE COURT: Okay.

12:54PM 25 (The witness retakes the witness stand.)

1 E. GREEN - RDX BY MS. SHELVEY

12:54PM 2 (Whereupon, the jury is escorted into the  
12:54PM 3 courtroom.)

12:54PM 4 THE COURT: Okay, ladies and gentlemen. You can  
12:54PM 5 have a seat. Mr. Green is back on the witness stand and I'll  
12:54PM 6 remind you, you are still under oath. Do you understand?

12:54PM 7 THE WITNESS: Yes.

12:54PM 8 THE COURT: Ms. Shelvey, continue your redirect.  
12:54PM 9 CONTINUED REDIRECT BY MS. SHELVEY:

12:54PM 10 Q. Good afternoon. Welcome back, sir. When we spoke  
12:54PM 11 earlier, you pleaded guilty to one count of RICO conspiracy,  
12:54PM 12 correct?

12:54PM 13 A. Yes.

12:54PM 14 Q. And now, as part of that entering into that plea  
12:54PM 15 agreement, were you required -- you understand that there is  
12:54PM 16 something you need to do in terms of cooperation?

12:54PM 17 A. Yes.

12:54PM 18 Q. And as part of that plea agreement, did you agree that  
12:55PM 19 you would cooperate with the government by providing complete  
12:55PM 20 and truthful information regarding the defendant regarding your  
12:55PM 21 knowledge of any and all criminal activity, whether undertaken  
12:55PM 22 by the defendant or others in any way involving or related to  
12:55PM 23 the Kingsmen Motorcycle Club racketeering activity, assault,  
12:55PM 24 murder, robbery, firearm use and possession and discharge?

12:55PM 25 A. Yes.

1 E. GREEN - RDX BY MS. SHELVEY

12:55PM 2 Q. Did you further agree that your cooperation should also  
12:55PM 3 include submitting to interviews by the government attorneys  
12:55PM 4 and agents?

12:55PM 5 A. Yes.

12:55PM 6 Q. And as well as testifying truthfully and fully before  
12:55PM 7 the grand jury and any other such proceeding as the government  
12:55PM 8 deems necessary?

12:55PM 9 A. Yes.

12:55PM 10 Q. And you understood the possible maximum penalty of RICO  
12:55PM 11 to be 20 years?

12:55PM 12 A. Yes.

12:55PM 13 Q. As part of your plea agreement itself, did you  
12:55PM 14 understand that there was an agreement between the government  
12:56PM 15 and counsel that your total offense level would be a 16?

12:56PM 16 A. Yes.

12:56PM 17 Q. And your term of imprisonment without cooperation would  
12:56PM 18 be 21 to 27 months?

12:56PM 19 A. Yes.

12:56PM 20 Q. And is it your understanding that if you comply with  
12:56PM 21 the terms of the agreement, some of them we just talked about,  
12:56PM 22 that you would be -- your sentence would be reduced by three  
12:56PM 23 levels, meaning your Sentencing Guidelines would be reduced by  
12:56PM 24 three levels?

12:56PM 25 A. Yes.

1 E. GREEN - RDX BY MS. SHELVEY

12:56PM 2 MR. DEAL: Objection.

12:56PM 3 THE COURT: Overruled.

12:56PM 4 Q. And that would make your range 12 to 18 months?

12:56PM 5 A. Yes.

12:56PM 6 Q. Is there anything in any of the plea agreement about  
12:56PM 7 getting six months plus some time on home detention?

12:56PM 8 A. No.

12:56PM 9 Q. So no matter how things go for you today, you're going  
12:56PM 10 to jail?

12:56PM 11 A. Yes.

12:56PM 12 MR. CONNORS: Excuse me, Ms. Meyers Buth.  
12:56PM 13 Objection.

12:56PM 14 THE COURT: Sustained.

12:57PM 15 Q. So the government agreed and you understood you would  
12:57PM 16 be going to prison?

12:57PM 17 MS. MEYERS BUTH: Objection.

12:57PM 18 MR. CONNORS: Objection.

12:57PM 19 THE COURT: Sustained.

12:57PM 20 Q. Would you testify to conduct even if you were not  
12:57PM 21 involved with it?

12:57PM 22 MR. CONNORS: Objection.

12:57PM 23 THE COURT: Sustained.

12:57PM 24 Q. Did you admit that you were aware as a member and as a  
12:57PM 25 President, a Regional President in the Kingsmen, that at



1 E. GREEN - RDX BY MS. SHELVEY

12:57PM 2 various times members used marijuana, cocaine and other  
12:57PM 3 controlled substances in and around the Kingsmen clubhouse?

12:57PM 4 MR. DEAL: Objection, beyond the scope of  
12:57PM 5 cross-examination.

12:57PM 6 THE COURT: Overruled.

12:57PM 7 A. Yes.

12:57PM 8 Q. And did you agree, as part of your plea agreement, that  
12:57PM 9 you were aware that Kingsmen members sold drugs, excuse me, in  
12:57PM 10 and around the Kingsmen clubhouses, including the Arcade  
12:57PM 11 chapter?

12:57PM 12 A. Yes.

12:57PM 13 Q. And did you, as part of your plea agreement, agree that  
12:58PM 14 even with brief periods of diminished drug use continued and  
12:58PM 15 distribution continued in and outside of and around the  
12:58PM 16 Kingsmen clubhouses?

12:58PM 17 A. Yes.

12:58PM 18 Q. Did you admit that you were aware that members  
12:58PM 19 possessed firearms, both on their persons and in the  
12:58PM 20 clubhouses?

12:58PM 21 A. Yes.

12:58PM 22 MR. CONNORS: I'll object to the line of  
12:58PM 23 questioning. Can we approach, your Honor?

12:58PM 24 THE COURT: Sure.

12:58PM 25 (Whereupon, a sidebar discussion was held on the

1 E. GREEN - RDX BY MS. SHELVEY

12:58PM 2 record.)

12:58PM 3 MR. CONNORS: We're going to the factual basis of  
12:58PM 4 the plea agreement.

12:58PM 5 THE COURT: What is the basis of doing it?

12:58PM 6 MS. SHELVEY: This is what he specifically himself  
12:58PM 7 pled guilty to, and this is what was permitted. Joe just did  
12:58PM 8 it.

12:58PM 9 THE COURT: He did it because it was raised on the  
12:58PM 10 cross-examination. In other words, the witness backed off from  
12:58PM 11 it on cross-examination.

12:58PM 12 MR. CONNORS: Right.

12:58PM 13 THE COURT: So Mr. Tripi was permitted to get into  
12:59PM 14 this on redirect because it was inconsistent, frankly, with  
12:59PM 15 what Mr. Haley testified to. But you're reading into the  
12:59PM 16 factual basis. We ran into this before, Ms. Shelvey, with a  
12:59PM 17 plea agreement and you tried to do the same thing, and I  
12:59PM 18 wouldn't allow it. There has to be a specific reason for you  
12:59PM 19 to be able to read in the factual basis for plea agreement.

12:59PM 20 MS. SHELVEY: As part of all of the  
12:59PM 21 cross-examinations, these witnesses were saying that this  
12:59PM 22 defendant specifically was getting a break for his testifying  
12:59PM 23 and he wasn't getting a break for testifying. But the fact is  
12:59PM 24 -- and he is getting charges dismissed. This witness pled  
12:59PM 25 guilty and accepted responsibility for conduct, including the

1 E. GREEN - RDX BY MS. SHELVEY

12:59PM 2 conduct upon which the charges were dismissed. That is all  
12:59PM 3 part of what he pled guilty. He is part of the racketeering  
12:59PM 4 activity.

12:59PM 5 THE COURT: Ask him that question.

12:59PM 6 MR. CONNORS: That was the problem we talked about  
12:59PM 7 last time, and try and insinuate because he pled guilty.

01:00PM 8 MS. SHELVEY: This is my 20 minutes. I'll zip and  
01:00PM 9 ask the Court.

01:00PM 10 MR. CONNORS: Note the further objection to ask  
01:00PM 11 this question where it insinuates all six of the others are  
01:00PM 12 locked in.

01:00PM 13 THE COURT: No, no, no. I'm saying you can ask  
01:00PM 14 the question. You admitted to the conduct subject of the other  
01:00PM 15 counts of the indictment.

01:00PM 16 MR. CONNORS: In his indictment.

01:00PM 17 THE COURT: In other words, he hasn't admitted to  
01:00PM 18 conduct that implicates him on Count 1, and he admitted to  
01:00PM 19 conduct on the 924(c) charges.

01:00PM 20 MR. CONNORS: Why would that be relevant to these  
01:00PM 21 defendant?

01:00PM 22 THE COURT: In other words, he admitted as part of  
01:00PM 23 the plea to conduct that not only involves the conduct at issue  
01:00PM 24 in Count 1. It goes to his bias and motive.

01:00PM 25 MS. MEYERS BUTH: I ask for an instruction to Mr.

1 E. GREEN - RDX BY MS. SHELVEY

01:00PM 2 Connors' point. He is admitting to things he is charged with  
01:00PM 3 in his indictment, which are similar to what we're charged  
01:00PM 4 with, and I don't want the jury to make the assumption, and I  
01:01PM 5 think they will because he and others have pled guilty to it.

01:01PM 6 THE COURT: That is clearly part of the  
01:01PM 7 instruction you want me to give right now?

01:01PM 8 MS. MEYERS BUTH: I do.

01:01PM 9 MS. SHELVEY: Is this counting against the  
01:01PM 10 Government's 20 minutes?

01:01PM 11 THE COURT: No, this isn't.

01:01PM 12 MR. DEAL: Maybe I misunderstood. If he pled  
01:01PM 13 guilty to Count 1, he pled to 924(c).

01:01PM 14 THE COURT: No, the factual basis has him guilty  
01:01PM 15 of 924(c).

01:01PM 16 (Whereupon, the proceeding continued.)

01:01PM 17 I'll allow Ms. Shelvey to elicit testimony from  
01:01PM 18 this witness about his guilty plea. You should not at all  
01:01PM 19 consider that connection with your consideration of the charges  
01:01PM 20 against these defendants in this case. And I will give you a  
01:01PM 21 much more detailed final instruction in that regard, but in  
01:01PM 22 other words, just because we have a defendant up here who was  
01:01PM 23 charged in a RICO conspiracy involving the Kingsman Motorcycle  
01:02PM 24 Club and he pled guilty, that should not impact your evaluation  
01:02PM 25 of the charges in this case. Go ahead, Ms. Shelvey.

1 E. GREEN - RDX BY MS. SHELVEY

01:02PM 2 MS. SHELVEY: Thank you.

01:02PM 3 (Whereupon, the proceeding continued.)

01:02PM 4 CONTINUING REDIRECT EXAMINATION BY MS. SHELVEY:

01:02PM 5 Q. Sir, counsel asked you about charges that were coming  
01:02PM 6 or you anticipated coming dismissed as a result of your  
01:02PM 7 testifying and your plea agreement, correct?

01:02PM 8 A. Yes.

01:02PM 9 Q. And as part of your plea agreement, did you plead  
01:02PM 10 guilty to that conduct as part of the charges which you are  
01:02PM 11 going to be sentenced on?

01:02PM 12 A. Yes.

01:02PM 13 Q. Now, Mr. Connors asked you and I want to talk to you a  
01:02PM 14 little bit about your orders to keep people apprised of the  
01:02PM 15 investigation as it progressed here in New York.

01:02PM 16 A. Okay.

01:02PM 17 Q. Who asked you to, quote, "find out who the rats were"?

01:02PM 18 A. Mr. Pirk.

01:02PM 19 Q. And who asked you to tell Rebel to, quote, "keep his  
01:02PM 20 mouth shut about the murders," after being called to testify?

01:03PM 21 A. Pirk.

01:03PM 22 Q. Who wanted to speak with Mr. Fritts regarding potential  
01:03PM 23 grand jury testimony?

01:03PM 24 A. Pirk.

01:03PM 25 MS. MEYERS BUTH: Objection, beyond the scope.

1 E. GREEN - RDX BY MS. SHELVEY

01:03PM 2 THE COURT: Overruled.

01:03PM 3 A. Pirk.

01:03PM 4 Q. As it relates to drugs, I believe Mr. Connors was  
01:03PM 5 talking about your ability to remove individuals from the  
01:03PM 6 clubhouses for drug use?

01:03PM 7 A. Yes.

01:03PM 8 Q. And was there a time that you did remove Kingsmen  
01:03PM 9 members for drug use?

01:03PM 10 A. Yes.

01:03PM 11 Q. And did there come a time when you were told to no  
01:03PM 12 longer do that?

01:03PM 13 A. No.

01:03PM 14 Q. Did you have discussions about removing individuals  
01:03PM 15 from the clubhouse?

01:03PM 16 A. Yes.

01:03PM 17 Q. And who were those conversations with?

01:03PM 18 A. Pirk.

01:03PM 19 Q. And anyone else?

01:03PM 20 A. Usually Pirk and Blaze would talk to me about the same.

01:03PM 21 Q. Do you recall what Mr. Pirk said about you allowing  
01:03PM 22 drug use to occur in your clubhouse?

01:04PM 23 MR. DEAL: Objection, leading.

01:04PM 24 THE COURT: Overruled.

01:04PM 25 A. He just said we weren't the party police and this is

1 E. GREEN - RDX BY MS. SHELVEY

01:04PM 2 the lifestyle that they pay for and we provide it.

01:04PM 3 Q. And did you have a conversation with Mr. Enix about  
01:04PM 4 your allowing drug use in your clubhouse?

01:04PM 5 A. I've had a few conversations with both of them about  
01:04PM 6 that.

01:04PM 7 Q. And I want you to listen as it relates only to Mr.  
01:04PM 8 Enix. What did Mr. Enix tell you?

01:04PM 9 A. I honestly don't remember right now.

01:04PM 10 Q. Throughout your tenure within the Kingsmen, were you  
01:04PM 11 aware that members sold drugs?

01:04PM 12 A. Yes.

01:04PM 13 Q. And were you aware that members used drugs?

01:04PM 14 A. Yes.

01:04PM 15 Q. And when you were in Florida and somebody shot up the  
01:04PM 16 air-conditioning unit, who told Daytona Dan to fix the  
01:04PM 17 air-conditioning after he says, "I got a little coked up"?

01:05PM 18 MR. CONNORS: Excuse me, beyond the scope of  
01:05PM 19 cross.

01:05PM 20 THE COURT: Overruled.

01:05PM 21 A. It was Pirk.

01:05PM 22 Q. Now, Ms. Meyers Buth asked you about what you overheard  
01:05PM 23 relating to the destruction of videos at the pig roast on  
01:05PM 24 September 6th of 2014. Do you remember those questions?

01:05PM 25 A. Yes.

1 E. GREEN - RDX BY MS. SHELVEY

01:05PM 2 Q. Who directly told you to destroy the video?

01:05PM 3 A. Directly told me?

01:05PM 4 Q. Mm-hmm.

01:05PM 5 A. It was Anthony Boitschenko.

01:05PM 6 Q. Was anyone with Mr. Boitschenko?

01:05PM 7 A. Pirk was with him, Tommy Scanlon, pretty sure Rob  
01:05PM 8 Osborne was there. It was like a bunch of us.

01:06PM 9 Q. And upon hearing that directive, was it clear what you  
01:06PM 10 were supposed to do?

01:06PM 11 A. Yes.

01:06PM 12 Q. And what was that?

01:06PM 13 A. To make it so nobody could see our videos.

01:06PM 14 Q. Now, I believe, again, counsel for Mr. Enix asked you  
01:06PM 15 about the conversations you had with Defendant Enix prior to  
01:06PM 16 the murders about Mr. Jenkins coming to the clubhouse. Do you  
01:06PM 17 recall those?

01:06PM 18 A. Yes.

01:06PM 19 Q. And did you have a conversation with Defendant Enix  
01:06PM 20 about Mr. Jenkins showing up at the clubhouse?

01:06PM 21 A. Yes.

01:06PM 22 Q. And was it a long conversation?

01:06PM 23 A. No.

01:06PM 24 Q. How would you describe the conversation?

01:06PM 25 A. I called and I said, "Is Little Bear allowed in



1 E. GREEN - RDX BY MS. SHELVEY

01:06PM 2 clubhouses?" And he said, "Yes, and Pirk is up there with

01:06PM 3 him." And that was pretty much the extent of it.

01:06PM 4 Q. Would you describe that as a brief conversation?

01:06PM 5 A. Yes.

01:07PM 6 Q. Now, I want to talk to you about the all-hands meeting.

01:07PM 7 Do you remember there was a number of questions about that?

01:07PM 8 A. Yeah.

01:07PM 9 Q. That was sometime in the fall of 2013?

01:07PM 10 A. Yeah.

01:07PM 11 Q. I believe Ms. Meyers Buth was asking you questions

01:07PM 12 about the meeting in terms of what was going on there, and

01:07PM 13 there was a discussion about finances?

01:07PM 14 A. Yes.

01:07PM 15 Q. And was Arcade getting a new clubhouse?

01:07PM 16 A. Yes.

01:07PM 17 Q. Was that discussed, how to finance it, during that

01:07PM 18 meeting?

01:07PM 19 A. Yes.

01:07PM 20 Q. And after that meeting, where did you go?

01:07PM 21 A. We went down to the place where we were getting a new

01:07PM 22 clubhouse.

01:07PM 23 Q. I'm going to show you 3527.14. First of all, you say

01:07PM 24 "we." Who were you referring to?

01:08PM 25 A. Pirk was there, Tim Haley, Hartz. I think Hartz was

1 E. GREEN - RDX BY MS. SHELVEY

01:08PM 2 there. I don't --

01:08PM 3 Q. Are there other people you don't remember?

01:08PM 4 A. Yes.

01:08PM 5 Q. And now I'm going to show you 3527.14. Do you remember  
01:08PM 6 Mr. Connors asked you whether Blaze was at an all-hands  
01:08PM 7 meeting?

01:08PM 8 A. Yes.

01:08PM 9 Q. And do you remember him showing 3527.14?

01:08PM 10 MR. DEAL: Objection.

01:08PM 11 THE COURT: Overruled.

01:08PM 12 A. He did show me something, I can't tell you.

01:08PM 13 Q. I'll ask, have you take a look at the bottom paragraph.  
01:08PM 14 Is that what Mr. Connors showed you, just the last paragraph?

01:08PM 15 A. Yes.

01:08PM 16 Q. And in that, do you mention whether or not Blaze was  
01:08PM 17 there?

01:08PM 18 A. No.

01:08PM 19 Q. Can you flip to page 2 for me. Did Mr. Connors show  
01:08PM 20 you page 2?

01:08PM 21 A. No.

01:08PM 22 Q. Take a look at that paragraph at the bottom. You're  
01:09PM 23 talking -- what are you talking about?

01:09PM 24 A. Taking Blaze, Pirk and Haley to the new spot where the  
01:09PM 25 clubhouse was going to be.

1 E. GREEN - RDX BY MS. SHELVEY

01:09PM 2 Q. So based on reading the complete portion of that  
01:09PM 3 report, do you know whether or not Defendant Enix was at the  
01:09PM 4 all-hands meeting?

01:09PM 5 A. I would say yes.

01:09PM 6 Q. Now, I'm going to direct your attention on April 26th  
01:09PM 7 of 2016. Did you speak with members of the government and the  
01:09PM 8 FBI about this meeting?

01:09PM 9 A. I believe so.

01:09PM 10 Q. So just after you got arrested?

01:09PM 11 A. Yes.

01:09PM 12 Q. And on that day, so that was about a week before the  
01:09PM 13 paper we just discussed?

01:09PM 14 A. Yes.

01:09PM 15 Q. And did you tell both the FBI and law enforcement in  
01:10PM 16 the fall of 2013 when Pirk was President, Florida KMC, northern  
01:10PM 17 KMC members came to Arcade clubhouse for a meeting while the  
01:10PM 18 clubhouse was still located in Wood's garage? Some of the guys  
01:10PM 19 who were at the meeting were Pirk, Drifter, Just Bill, Willard,  
01:10PM 20 Vegas, Kazoo, Free Fall, Blaze? Did you tell them that?

01:10PM 21 A. Yes.

01:10PM 22 Q. So that was a week before the document that counsel  
01:10PM 23 showed you?

01:10PM 24 A. Yes.

01:10PM 25 MR. CONNORS: Excuse me. It wasn't before the

1 E. GREEN - RDX BY MS. SHELVEY

01:10PM 2 document that I showed him.

01:10PM 3 Q. The date of the document counsel showed you April 26th  
01:10PM 4 and May 4th are the two document dates we're talking about?

01:10PM 5 A. I believe so.

01:10PM 6 Q. Okay. When you first became a KMC member, was Filly  
01:10PM 7 already a member?

01:11PM 8 A. Yes.

01:11PM 9 Q. Was Special Ed?

01:11PM 10 A. Hold on. I'm not 100 percent if Filly was a member at  
01:11PM 11 that time. Actually, I'm pretty sure he wasn't.

01:11PM 12 Q. How about Special Ed?

01:11PM 13 A. Yes.

01:11PM 14 Q. Do you know who brought Filly into KMC?

01:11PM 15 A. I know he wasn't very well wanted, so it would have  
01:11PM 16 been -- it was after Pirk had taken over, so.

01:11PM 17 Q. At some point, did both Filly and Special Ed rise to a  
01:11PM 18 level of Nomad?

01:11PM 19 A. Yes.

01:11PM 20 Q. And did you make efforts to try and get Special Ed  
01:11PM 21 removed from the Kingsmen?

01:11PM 22 A. Yes.

01:11PM 23 Q. Did someone refuse your request?

01:11PM 24 A. Yes.

01:11PM 25 Q. Who was that?

1 E. GREEN - RDX BY MS. SHELVEY

01:11PM 2 A. Pirk.

01:11PM 3 Q. What about Filly?

01:11PM 4 A. Yes.

01:11PM 5 Q. And did someone refuse that request?

01:11PM 6 A. Yes.

01:11PM 7 Q. And who?

01:11PM 8 A. Pirk.

01:11PM 9 Q. Now, finally, Mr. Connors asked you about keeping  
01:11PM 10 things in your back pocket. Do you remember that line of  
01:11PM 11 questioning?

01:11PM 12 A. Yes.

01:12PM 13 Q. So, did you say that?

01:12PM 14 A. I did.

01:12PM 15 Q. Why?

01:12PM 16 A. At the time, I didn't know all of this was going on and  
01:12PM 17 watching too many TV shows, and I didn't want to tell  
01:12PM 18 everything. You know, they weren't really asking me specific  
01:12PM 19 questions, so I just didn't want to elaborate to the point  
01:12PM 20 where I might get in trouble or get somebody else in trouble.

01:12PM 21 Q. And in May of 2014 when you spoke to the FBI, were you  
01:12PM 22 still a Kingsman?

01:12PM 23 A. Say it again?

01:12PM 24 Q. May of 2014?

01:12PM 25 A. Yes.

1 E. GREEN - RDX BY MS. SHELVEY

01:12PM 2 Q. And where was your loyalty?

01:12PM 3 A. At that time, with the Kingsmen.

01:12PM 4 Q. Did you ever tell the Kingsmen that you spoke to the  
01:12PM 5 FBI in May of 2014?

01:12PM 6 A. Yes.

01:12PM 7 Q. Now, after pleading guilty, you agreed to cooperate?

01:12PM 8 A. Yes.

01:12PM 9 Q. And during that time, did you tell law enforcement that  
01:12PM 10 you knew or were aware of Kingsmen activities from spring of  
01:12PM 11 2013 until you left in August of 2015?

01:13PM 12 A. Yes.

01:13PM 13 Q. And did that activity include who sold drugs?

01:13PM 14 A. Some people. I didn't know all of the activity.

01:13PM 15 Q. Some people who used drugs?

01:13PM 16 A. Yes.

01:13PM 17 Q. Did you talk about who owned or possessed weapons?

01:13PM 18 A. Yes.

01:13PM 19 Q. That included yourself?

01:13PM 20 A. No.

01:13PM 21 Q. Did you talk about violence the Kingsmen were involved  
01:13PM 22 in?

01:13PM 23 A. Yes.

01:13PM 24 Q. And including an assault that you perpetrated on Roger  
01:13PM 25 Albright?

1 E. GREEN - RDX BY MS. SHELVEY

01:13PM 2 A. Yes.

01:13PM 3 Q. And did you talk about the Springville shutdown?

01:13PM 4 A. What I knew about it.

01:13PM 5 Q. And the Springville shooting?

01:13PM 6 A. Yes.

01:13PM 7 Q. And Flip assaulting various people?

01:13PM 8 A. Yes.

01:13PM 9 Q. Did you talk about the South Buffalo confrontation and  
01:13PM 10 what you knew about it?

01:13PM 11 A. Yes.

01:13PM 12 Q. In the conversation, did you tell them about the  
01:13PM 13 conversations you had with the defendants after the fact?

01:13PM 14 A. Yes.

01:13PM 15 Q. Relating to Pirk taking care of it?

01:13PM 16 A. Yes.

01:13PM 17 Q. Did you tell them that you were ordered to tell Rebel  
01:14PM 18 to keep his mouth shut?

01:14PM 19 MR. CONNORS: Excuse me. I'll object to the form  
01:14PM 20 of the leading questions.

01:14PM 21 THE COURT: Sustained.

01:14PM 22 Q. Who told you during the all-hands meeting? Was there a  
01:14PM 23 separate meeting within that larger meeting?

01:14PM 24 A. I don't really understand.

01:14PM 25 Q. Okay. Where was the main meeting held?

1 E. GREEN - RDX BY MS. SHELVEY

01:14PM 2 A. In the basement of Jack Wood's house.

01:14PM 3 Q. Did you have any private conversations with any of the  
01:14PM 4 members, if you can recall?

01:14PM 5 A. I don't recall.

01:14PM 6 Q. Was there a discussion about hunting Skeetermen?

01:14PM 7 A. That was a conversation for a lot of people.

01:14PM 8 Q. And what was it meant to hunt Skeetermen?

01:15PM 9 A. They didn't want to have anyone of what they call  
01:15PM 10 "Skeetermen," loyal to Skeeter, in the club.

01:15PM 11 Q. What were you supposed to do when you found the  
01:15PM 12 Skeetermen?

01:15PM 13 A. Beat them, throw them out of the club.

01:15PM 14 Q. How?

01:15PM 15 A. Just take their patches and toss them.

01:15PM 16 Q. Just nicely remove their patches?

01:15PM 17 MR. CONNORS: Excuse me, object to the form of the  
01:15PM 18 question.

01:15PM 19 MS. MEYERS BUTH: Objection.

01:15PM 20 THE COURT: Sustained.

01:15PM 21 Q. How were you to take their patches?

01:15PM 22 A. By any ways possible.

01:15PM 23 Q. Now, during your conversation with Mr. Connors, you  
01:15PM 24 said you couldn't remember certain phone calls because you  
01:15PM 25 spoke to him a lot, meaning you spoke to Defendant Pirk a lot?



1 E. GREEN - RDX BY MS. SHELVEY

01:15PM 2 A. Yes, both.

01:15PM 3 Q. What do you mean both?

01:15PM 4 A. Both Pirk and Blaze, probably thousands of times that I  
01:15PM 5 spoke to them.

01:15PM 6 Q. I want to just show you between August, which was after  
01:15PM 7 the South Buffalo, through November 2013, after the arrest of  
01:16PM 8 Defendant Jenkins.

01:16PM 9 THE COURT: What exhibit number is that?

01:16PM 10 MS. SHELVEY: Exhibit 305. I'll have you take a  
01:16PM 11 quick look through that.

01:16PM 12 I got a two-minute warning. If we can briefly  
01:16PM 13 bring up.

01:16PM 14 THE COURT: Would you agree there are  
01:16PM 15 approximately 75 phone calls.

01:16PM 16 THE COURT: Do you need glasses, Mr. Green?

01:16PM 17 THE WITNESS: I think as I get older, yes.

01:16PM 18 THE COURT: Do you need them to read that?

01:16PM 19 THE WITNESS: I don't normally read with them. I  
01:16PM 20 have to hold it farther away from me.

01:16PM 21 MS. SHELVEY: Mr. Deal is offering you his reading  
01:16PM 22 glasses.

01:16PM 23 THE WITNESS: No, thank you.

01:16PM 24 MS. SHELVEY: Thank you.

01:17PM 25 THE WITNESS: My arms are long enough now.

1 E. GREEN - RDX BY MS. SHELVEY

01:17PM 2 Q. Sir, would you agree there are about 75 calls during  
01:17PM 3 that time period?

01:17PM 4 A. I would have to assume at least that.

01:17PM 5 Q. I'll direct your attention to around September 1st --  
01:17PM 6 strike that. I'm sorry, August 16th that would be. I  
01:17PM 7 apologize.

01:17PM 8 THE COURT: I'm giving you a two-minute warning  
01:17PM 9 now, Ms. Shelvey.

01:17PM 10 MS. SHELVEY: All right. Yes, your Honor.

01:17PM 11 Q. If we can go to August 17th, please. That is page 3 of  
01:17PM 12 176. If we can start with the number 3851. Do you know whose  
01:18PM 13 phone number 3851?

01:18PM 14 A. It's a Florida number without seeing where it came  
01:18PM 15 from.

01:18PM 16 Q. Previously admitted into evidence, that number belongs  
01:18PM 17 to Defendant Pirk?

01:18PM 18 MR. TRIPI: No.

01:18PM 19 MS. SHELVEY: Apologize, Enix.

01:18PM 20 Q. How long was that phone conversation?

01:18PM 21 A. Five minutes.

01:18PM 22 MS. SHELVEY: Ms. Prawel, if we can go to the bottom of  
01:18PM 23 the page. Now you have August 17th. You have the 3851 coming  
01:18PM 24 to Defendant Enix?

01:18PM 25 A. Yes.

1 E. GREEN - RDX BY MS. SHELVEY

01:18PM 2 Q. 3851 the same day, or I'm sorry, the 17th, now an  
01:18PM 3 8-minute call to who?

01:18PM 4 A. Tim Enix.

01:18PM 5 Q. And 3851, 45 minutes later, a 21-minute call?

01:18PM 6 A. Yes.

01:18PM 7 Q. To who?

01:18PM 8 A. Tim Enix.

01:19PM 9 Q. Sir, is it sufficient to say there were a number of  
01:19PM 10 calls?

01:19PM 11 A. Yes.

01:19PM 12 Q. And if we can, did they vary in time?

01:19PM 13 A. Yes.

01:19PM 14 Q. Some very short?

01:19PM 15 THE COURT: The document is in evidence. Why  
01:19PM 16 don't you wrap it up?

01:19PM 17 MS. SHELVEY: Yes, your Honor.

01:19PM 18 Q. Sir, do you harbor any ill will to the defendants here?

01:19PM 19 MR. CONNORS: I'm going to object.

01:19PM 20 MS. MEYERS BUTH: Objection.

01:19PM 21 THE COURT: Counsel, Ms. Meyers Buth asked you if  
01:19PM 22 you had any hostility towards Defendant Pirk.

01:19PM 23 A. Yes.

01:19PM 24 Q. Is that based on your time that you spent with the  
01:19PM 25 Kingsmen?

1 E. GREEN - RCX BY MS. MEYERS BUTH

01:19PM 2 A. Yes.

01:19PM 3 MS. SHELVEY: Thank you. No further questions.

01:20PM 4 THE COURT: Thank you, Ms. Shelvey. Ms. Meyers  
01:20PM 5 Buth.

01:20PM 6 MS. MEYERS BUTH: Thank you, Judge.

01:20PM 7 MR. DEAL: Your Honor, I will cede my time to Ms.  
01:20PM 8 Meyers Buth.

01:20PM 9 THE COURT: Doesn't work that way.

01:20PM 10 MS. MEYERS BUTH: Nice try, Mr. Deal. I  
01:20PM 11 appreciate that.

01:20PM 12 RECROSS-EXAMINATION BY MS. MEYERS BUTH:

01:20PM 13 Q. Mr. Green, you were just asked about your plea  
01:20PM 14 agreement. Do you remember those questions?

01:20PM 15 A. Yes.

01:20PM 16 Q. And the prosecutor asked you whether, without  
01:20PM 17 cooperating, you were looking at a sentencing range of 21 to 27  
01:20PM 18 months?

01:20PM 19 A. Yes.

01:20PM 20 Q. So without doing anything to substantially assist the  
01:20PM 21 government, your recommended sentencing range was about two  
01:20PM 22 years?

01:20PM 23 A. Yes.

01:20PM 24 Q. But coupled with cooperation, including your testimony  
01:20PM 25 here, you know that you could be sentenced to as little as

1 E. GREEN - RCX BY MS. MEYERS BUTH

01:21PM 2 probation or time served on this case; is that correct?

01:21PM 3 MS. SHELVEY: Objection, that is not the plea  
01:21PM 4 agreement.

01:21PM 5 THE COURT: Overruled.

01:21PM 6 A. It's my understanding that it's entirely up to the  
01:21PM 7 Judge from that point.

01:21PM 8 Q. I understand. That is not my question. My question is  
01:21PM 9 your understanding is that with cooperation, including your  
01:21PM 10 testimony here, you could be sentenced to as little as  
01:21PM 11 probation or time served?

01:21PM 12 A. Right. Nobody has ever told me that.

01:21PM 13 Q. Isn't that what you're hoping for, not to get jail  
01:21PM 14 time?

01:21PM 15 A. I definitely would hope for that.

01:21PM 16 Q. And that is a possibility in this case for you?

01:21PM 17 A. Honestly, I don't know. I don't know how this stuff  
01:21PM 18 works.

01:21PM 19 Q. Now, in terms of, in terms of what you pled guilty to,  
01:21PM 20 Ms. Shelvey was reading from a document that was not a document  
01:21PM 21 that you helped prepare, correct?

01:21PM 22 A. Correct.

01:21PM 23 Q. That document resulted from the negotiation between  
01:21PM 24 your lawyer and the government exclusively, correct?

01:21PM 25 A. Yes.

1 E. GREEN - RCX BY MS. MEYERS BUTH

01:21PM 2 Q. And your lawyer, at some point, made recommendations to  
01:22PM 3 you about what you should do in relation to that document,  
01:22PM 4 true?

01:22PM 5 A. Yes.

01:22PM 6 Q. And so how things are phrased or why things are  
01:22PM 7 contained in the document, you can't say?

01:22PM 8 A. No.

01:22PM 9 Q. Okay. Moving on. Orders to keep people apprised. We  
01:22PM 10 talked about this the other day. Fair to say everybody was  
01:22PM 11 trying to piece together what had happened immediately after  
01:22PM 12 the murders?

01:22PM 13 A. Yes.

01:22PM 14 Q. And it didn't strike you as unusual or sinister that  
01:22PM 15 Mr. Pirk, among others, wanted to be kept apprised about things  
01:22PM 16 in the investigation you learned in New York, right?

01:22PM 17 A. Yes.

01:22PM 18 Q. And it was essential especially because he had gone  
01:22PM 19 back to Florida, right?

01:22PM 20 A. Yes.

01:22PM 21 Q. And one of the things you were just asked about, Mr.  
01:22PM 22 Pirk wanted to know allegedly who the rats were?

01:22PM 23 A. Yes.

01:22PM 24 Q. And by rats, we understand that to mean snitches or  
01:23PM 25 people telling law enforcement information, correct?

1 E. GREEN - RCX BY MS. MEYERS BUTH

01:23PM 2 A. Yes.

01:23PM 3 Q. Did you tell Mr. Pirk that you yourself were a rat?

01:23PM 4 A. No.

01:23PM 5 Q. Did you tell Mr. Pirk that you had, at that time right  
01:23PM 6 after the murders in September of 2014, that you had already  
01:23PM 7 met with the FBI in May of '14?

01:23PM 8 A. No.

01:23PM 9 Q. Did you tell Mr. Pirk that after the party at Jack  
01:23PM 10 Wood's house, you sought out a Buffalo police officer that you  
01:23PM 11 were friends with, Officer Rose, and told him what your theory  
01:23PM 12 about the murders was?

01:23PM 13 A. Yes.

01:23PM 14 Q. And you told --

01:23PM 15 A. No. No, I didn't tell Mr. Pirk that, no.

01:23PM 16 Q. Did you tell Mr. Pirk you also sought out Investigator  
01:23PM 17 Vicco from the New York State Police to talk to him after the  
01:23PM 18 party at Jack Wood's about what you had heard?

01:23PM 19 A. I honestly don't remember a Detective Vicco, not saying  
01:23PM 20 I didn't.

01:23PM 21 Q. In terms of the questions about your ability to remove  
01:24PM 22 Kingsmen for drug use. Let's talk about that for a minute,  
01:24PM 23 okay?

01:24PM 24 A. Okay.

01:24PM 25 Q. I thought you told me on cross that you did, in fact,

1 E. GREEN - RCX BY MS. MEYERS BUTH

01:24PM 2 remove up to nine Kingsmen during your tenure for Arcade  
01:24PM 3 clubhouse for drug use or stealing?

01:24PM 4 A. Correct.

01:24PM 5 Q. And that was true, correct?

01:24PM 6 A. Yes.

01:24PM 7 Q. And you'll agree with me that is a small, minority of  
01:24PM 8 the Kingsmen in New York?

01:24PM 9 A. I'm sorry. Say that again.

01:24PM 10 Q. Sure, nine people. How many Kingsmen were there in New  
01:24PM 11 York at that time while you were President of Arcade?

01:24PM 12 A. Not really sure at that time. I mean, there was  
01:24PM 13 various times.

01:24PM 14 Q. Fair to say well over 100?

01:24PM 15 A. Yes.

01:24PM 16 Q. And so nine people over a two-year period was a small  
01:24PM 17 minority of the Kingsmen that were actually removed for drug  
01:24PM 18 use by you?

01:24PM 19 A. Yes.

01:24PM 20 MS. SHELVEY: The question was drug use or  
01:24PM 21 stealing? I think we need to make that known.

01:24PM 22 THE COURT: The question is whether or not nine  
01:25PM 23 people were removed for drug use. He can explain if that is  
01:25PM 24 not correct. Overruled. Go ahead, Mr. Green. Do you  
01:25PM 25 understand the question?



1 E. GREEN - RCX BY MS. MEYERS BUTH

01:25PM 2 Q. About nine people were removed?

01:25PM 3 A. There were some removed for drug use and some, I think  
01:25PM 4 two, for stealing.

01:25PM 5 Q. And sometimes drug use and stealing go hand in hand?

01:25PM 6 A. Yes.

01:25PM 7 Q. And Mr. Pirk never told you that you weren't allowed to  
01:25PM 8 remove guys for drug use, correct?

01:25PM 9 A. No.

01:25PM 10 Q. But there was an ongoing discussion between the two of  
01:25PM 11 you about who to remove, what the nature of the drug use was  
01:25PM 12 and so on?

01:25PM 13 A. Yes.

01:25PM 14 Q. So, in other words, if somebody was smoking marijuana  
01:25PM 15 in the clubhouse and you told them not to do that and you  
01:25PM 16 wanted to remove them, Mr. Pirk might say, you know, not this  
01:25PM 17 guy or not this guy and not --

01:26PM 18 MS. SHELVEY: Objection, calls for speculation.

01:26PM 19 THE COURT: Overruled. I mean, the question is  
01:26PM 20 did he say that.

01:26PM 21 A. I'm sorry, repeat the question.

01:26PM 22 Q. Sure, sure. It was confusing. There were times, were  
01:26PM 23 there not, when you spoke to Mr. Pirk and you said, "I'm  
01:26PM 24 thinking about removing this particular person that keeps  
01:26PM 25 smoking marijuana in the clubhouse," and Mr. Pirk said "no, not

1 E. GREEN - RCX BY MS. MEYERS BUTH

01:26PM 2 for that, we're not going to remove somebody"?

01:26PM 3 A. No, no.

01:26PM 4 Q. So, did he follow your recommendations pretty much then  
01:26PM 5 on the guys you wanted removed?

01:26PM 6 A. No.

01:26PM 7 Q. You wanted removed?

01:26PM 8 A. Yes.

01:26PM 9 Q. And all he was telling you was let's take it easy a  
01:26PM 10 little bit, slow down and keep an eye on things and we'll keep  
01:26PM 11 talking?

01:26PM 12 A. On some occasions, yes.

01:26PM 13 Q. And in terms of the term "party police," that was  
01:26PM 14 really Mr. Haley that used to say party police?

01:26PM 15 A. I didn't speak with Mr. Haley.

01:27PM 16 Q. You did at some point during your tenure in the  
01:27PM 17 Kingsmen?

01:27PM 18 A. I'm sure I did, but as very little as possible.

01:27PM 19 Q. And why is it that you didn't speak with Mr. Haley?

01:27PM 20 MS. SHELVEY: Objection, beyond the scope.

01:27PM 21 THE COURT: Overruled.

01:27PM 22 A. I didn't like him. I thought he was the head of  
01:27PM 23 Special Ed and Filly and yeah.

01:27PM 24 Q. And in terms of members who used drugs, just to  
01:27PM 25 clarify, these are members who are using drugs for personal

1 E. GREEN - RCX BY MS. MEYERS BUTH

01:27PM 2 reasons. In other words, it wasn't the KMC supplying drugs to  
01:27PM 3 people or profiting from drug use in the clubhouse, correct?

01:27PM 4 A. Correct.

01:27PM 5 Q. Because if that were the case, you wouldn't have been a  
01:27PM 6 member, correct?

01:27PM 7 A. Correct.

01:27PM 8 Q. And so there were no drugs stored in the clubhouses,  
01:27PM 9 correct?

01:27PM 10 A. Correct.

01:27PM 11 Q. You would agree with me that the primary purpose of  
01:27PM 12 maintaining the clubhouse was not for drug use?

01:27PM 13 A. No, it wasn't.

01:27PM 14 Q. Thank you. In terms of the Arcade video that you were  
01:28PM 15 asked about on redirect, that was never destroyed, was it?

01:28PM 16 A. No.

01:28PM 17 Q. And it was Mr. Boitschenko that had the discussion with  
01:28PM 18 you about destroying that video, correct?

01:28PM 19 A. There was a bunch of us around, yes.

01:28PM 20 Q. And, also, you were asked about beating Skeetermen and  
01:28PM 21 throwing them out of the club. Do you remember that question?

01:28PM 22 A. Yes.

01:28PM 23 Q. And there was, in fact, a point in time where Turk was  
01:28PM 24 stopped in an intersection by some of the Arcade members. Do  
01:28PM 25 you remember that?

1 E. GREEN - RCX BY MR. CONNORS

01:28PM 2 A. Yes.

01:28PM 3 Q. And Turk you would consider a Skeeterman?

01:28PM 4 A. Yes.

01:28PM 5 Q. And, in fact, he wasn't physically assaulted. He was  
01:28PM 6 brought to you and there was a discussion between you and him,  
01:28PM 7 correct?

01:28PM 8 A. No.

01:28PM 9 Q. He was not physically assaulted?

01:28PM 10 A. He was not. His child was in the car.

01:28PM 11 MS. MEYERS BUTH: That's all I have. Thank you,  
01:28PM 12 Mr. Green.

01:28PM 13 THE COURT: Thanks, Ms. Meyers Buth.

01:29PM 14 Has Mr. Deal abdicated?

01:29PM 15 MR. DEAL: I have abdicated and I have no recross.

01:29PM 16 THE COURT: Go ahead, Mr. Connors.

01:29PM 17 RECROSS-EXAMINATION BY MR. CONNORS:

01:29PM 18 Q. Hi, Mr. Green.

01:29PM 19 A. Hello.

01:29PM 20 Q. I want to ask you about the all-hands meeting in the  
01:29PM 21 fall of 2013. Ms. Shelvey pointed out the first time you met  
01:29PM 22 with the FBI, you told them you thought Tim Enix was there,  
01:29PM 23 correct?

01:29PM 24 A. Yes.

01:29PM 25 Q. And then I asked you about the second time you met with

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01:29PM 2 the FBI and I pointed you to a portion of the statement in the  
01:29PM 3 interview where you didn't include that in that, correct?

01:29PM 4 A. Yes.

01:29PM 5 Q. And so would it be fair to say, sir, that you have  
01:29PM 6 given different versions as to whether you specifically  
01:29PM 7 remember Tim Enix coming at the all-hands meeting or not?

01:29PM 8 A. I don't believe I was, but.

01:29PM 9 Q. Haley was there, right? You remember him?

01:29PM 10 A. Yes.

01:29PM 11 Q. That is a guy you remember?

01:29PM 12 A. Yes.

01:29PM 13 Q. He sticks out in your mind?

01:29PM 14 A. Yes.

01:29PM 15 Q. And you don't like him?

01:29PM 16 A. Yes.

01:30PM 17 Q. He was a snake, wasn't he?

01:30PM 18 A. I believe so.

01:30PM 19 Q. So do you know what he said about whether Tim was  
01:30PM 20 present or not?

01:30PM 21 A. I do not.

01:30PM 22 Q. You don't? You didn't discuss that with the  
01:30PM 23 government?

01:30PM 24 A. No.

01:30PM 25 Q. But would it be fair to say, sir, that with respect to

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01:30PM 2 the all-hands meeting, you're not completely 100 percent sure,  
01:30PM 3 are you, that Tim was at that meeting?

01:30PM 4 A. You're right.

01:30PM 5 Q. Could we go to the phone call now for a second. You  
01:30PM 6 said today that you remembered that the phone call was on  
01:30PM 7 September 4th, 2014, with Tim?

01:30PM 8 A. I do not remember the exact date.

01:30PM 9 Q. You can't tell us with any certainty whether that call  
01:30PM 10 on the record of Exhibit 305 that is in evidence that we showed  
01:30PM 11 you the last time I got to speak with you, you can't tell us  
01:30PM 12 whether that is the call you had with Tim Enix?

01:30PM 13 A. I cannot.

01:30PM 14 Q. And you thought you were trying to recall it because  
01:30PM 15 you first got a call from Blocker?

01:30PM 16 A. Even that, I'm not absolutely sure which one of the  
01:31PM 17 guys in Arcade called me.

01:31PM 18 Q. I get it. We couldn't find Blocker's number on your  
01:31PM 19 call records.

01:31PM 20 A. Okay.

01:31PM 21 Q. Remember we looked for that?

01:31PM 22 A. Yeah.

01:31PM 23 Q. And then you said you thought there may be a call with  
01:31PM 24 Tim Enix and then you're not sure, and then you told us on  
01:31PM 25 direct that you called Blocker back to tell him what Tim's

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01:31PM 2 answer was?

01:31PM 3 MS. SHELVEY: Objection, mischaracterizes. He  
01:31PM 4 never said he thought he called Tim Enix.

01:31PM 5 THE COURT: Overruled. Let's have the witness say  
01:31PM 6 whether or not this is correct.

01:31PM 7 Q. I want to confirm with you, you thought your  
01:31PM 8 recollection was after you spoke to Tim, you called Blocker  
01:31PM 9 back because you had to give him the news what you learned?

01:31PM 10 A. I know I got a call from someone from Arcade and I  
01:31PM 11 called Tim Enix and I called back. What day that was on, I  
01:31PM 12 can't tell.

01:31PM 13 Q. You can't tell us if it was the 4th?

01:31PM 14 A. No, I cannot.

01:31PM 15 Q. Can you tell us definitely it was Blocker?

01:31PM 16 A. I definitely can't.

01:31PM 17 Q. So you had to call Blocker back to give him the  
01:32PM 18 information from Tim?

01:32PM 19 A. Yes.

01:32PM 20 Q. And there is no call before your call to Tim Enix and  
01:32PM 21 then after?

01:32PM 22 MS. SHELVEY: There is no foundation establishing  
01:32PM 23 Blocker's number is correct.

01:32PM 24 Q. We went over the call, and you had a call from 744 that  
01:32PM 25 went to Tim Enix, one minute?

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01:32PM 2 A. Yes.

01:32PM 3 Q. And you remember I asked you to show me where Blocker's  
01:32PM 4 call number was on your own records and you couldn't find it?

01:32PM 5 A. Right.

01:32PM 6 Q. And then not only is there not a call from Blocker  
01:32PM 7 coming in, there is none to you going back to him, is there?

01:32PM 8 A. Not that we could find.

01:32PM 9 Q. And let me ask you this, sir. When you gave that  
01:32PM 10 information on direct, you were a little more certain. It was  
01:32PM 11 September 4th when you spoke to Tim, correct, on direct  
01:33PM 12 examination?

01:33PM 13 A. I believe she showed me a paper.

01:33PM 14 Q. But you told the government before they put you on the  
01:33PM 15 stand that you weren't sure that was the call, correct?

01:33PM 16 MS. SHELVEY: Objection, beyond the scope.

01:33PM 17 THE COURT: Sustained, or overruled.

01:33PM 18 Q. Correct?

01:33PM 19 A. Yes.

01:33PM 20 Q. You told them you weren't sure about it?

01:33PM 21 A. Yes.

01:33PM 22 Q. And you told them you weren't sure it was the date?

01:33PM 23 A. Correct.

01:33PM 24 Q. Or the time or the call, correct?

01:33PM 25 A. Right.



1 E. GREEN - RCX BY MR. CONNORS

01:33PM 2 Q. And just to round this out, Blocker is the guy from  
01:33PM 3 Arcade that you put "out bad" with no contact on May 18th,  
01:33PM 4 2015, correct?

01:33PM 5 A. Yes.

01:33PM 6 Q. Because you called him in your own Facebook a lying  
01:33PM 7 piece of shit?

01:33PM 8 A. Yes, I'm not too sure of the date, but yes.

01:33PM 9 MR. CONNORS: Thank you, sir.

01:33PM 10 THE COURT: Thank you, Mr. Connors. All right,  
01:33PM 11 counsel. Mr. Green, you can step down. Thank you, and  
01:33PM 12 counsel, can you approach?

01:34PM 13 Ladies and gentlemen, feel free to stretch.

01:34PM 14 (Whereupon, a sidebar discussion was held on the  
01:34PM 15 record.)

01:34PM 16 THE COURT: We'll take advantage of the 30 minutes  
01:34PM 17 that we have left.

01:34PM 18 MR. TRIPI: I wasn't prepared for that. I don't  
01:34PM 19 have any stuff for Mango.

01:34PM 20 MR. CONNORS: I don't, either. I thought we were  
01:34PM 21 ending today.

01:34PM 22 MR. TRIPI: I'm sorry. I should have had it  
01:34PM 23 ready.

01:34PM 24 (Whereupon, the proceeding continued.)

01:34PM 25 THE COURT: Okay. All right. We're going to

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01:34PM 2 finish early today. I'm going to remind you of the schedule  
01:34PM 3 for the rest of this week and tomorrow. We're going to start  
01:34PM 4 at 9:00 and go to 1:30 p.m., and then Friday is a full day, the  
01:34PM 5 9:00 to 5:00. We'll obviously have a lunch break.

01:34PM 6 Let me remind you of my admonitions before you  
01:34PM 7 leave, and they are as follows. Don't discuss the case among  
01:35PM 8 yourselves or with anyone else. This includes discussing it by  
01:35PM 9 social media. In fairness to all parties, you have to keep an  
01:35PM 10 open demeanor throughout the trial, reaching your conclusion  
01:35PM 11 only during your final deliberations, after all of the evidence  
01:35PM 12 is in and after you've heard the attorneys' summations and my  
01:35PM 13 instructions to you on the law, and then and only then, once  
01:35PM 14 you have had a chance to talk to each other about the case.

01:35PM 15 If anyone tries to talk to you about the case or  
01:35PM 16 does anything else you think is improper, you need to let me  
01:35PM 17 know that right away by letting our courtroom deputy or court  
01:35PM 18 security officer know and do not seek advice from each other.  
01:35PM 19 Err on the side of caution and let me know about anything you  
01:35PM 20 think is potentially necessary to bring to my attention.

01:35PM 21 Do not visit any location at issue in this case  
01:35PM 22 and do not do any research or make any investigation about this  
01:35PM 23 case on your own. Do not talk to any of the witnesses, parties  
01:35PM 24 or attorneys outside of this courtroom or in this courtroom,  
01:36PM 25 and this includes even to pass the time of day. In no other

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01:36PM 2 way can all parties be assured of the absolute impartiality  
01:36PM 3 they are entitled to expect from you as jurors.

01:36PM 4 And you need to avoid any media accounts about  
01:36PM 5 this case. As I've said, these courtrooms are open courtrooms.  
01:36PM 6 That means anyone can come in and watch the proceedings. Even  
01:36PM 7 if inadvertently you end up seeing or hearing something in the  
01:36PM 8 media, you need to let me know about that right away.

01:36PM 9 I want to thank you for your attention and  
01:36PM 10 patience. You all are doing a great job. It is an important  
01:36PM 11 duty you are fulfilling. As I said during voir dire, our  
01:36PM 12 criminal justice system depends on the cooperation and the  
01:36PM 13 diligence of folks like you, and we wouldn't be able to be here  
01:36PM 14 handling the trial without you. So I know, as I said before,  
01:36PM 15 this is a significant amount of time away from your everyday  
01:37PM 16 lives and I appreciate it and everybody here appreciates it and  
01:37PM 17 you're doing a wonderful job. And have a wonderful afternoon  
01:37PM 18 and we'll see you tomorrow.

01:37PM 19 (Whereupon, the jury is escorted from the  
01:37PM 20 courtroom.)

01:38PM 21 THE COURT: Why don't we take a quick five-minute  
01:38PM 22 break and reconvene. I would caution you against walking  
01:38PM 23 outside until the jury leaves. All right. If the defendants  
01:38PM 24 want to stick around for this discussion, you are welcome to,  
01:38PM 25 but if you want to waive, you're welcome.

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01:38PM 2 MR. COVERT: Mr. Jenkins is going to waive his  
01:38PM 3 appearance.

01:38PM 4 THE COURT: Okay.

01:38PM 5 The discussion pertains more to Mr. Pirk and Mr.  
01:38PM 6 Enix.

01:38PM 7 MR. COVERT: I like those discussions.

01:38PM 8 (Whereupon, there was a break in the proceeding.)

02:02PM 9 MR. TRIPI: This is going to be DePasquale and he  
02:02PM 10 was on Enix search and Dave Brown was on Pirk search and we'll  
02:02PM 11 have more evidence.

02:02PM 12 THE COURT: So this is just Enix. Mr. Pirk and  
02:02PM 13 Mr. Enix and Mr. Enix are waiving.

02:02PM 14 MR. COVERT: I think he'll waive it. Mr. Pirk is  
02:02PM 15 here.

02:02PM 16 MR. DEAL: Mr. Jenkins waives his presence.

02:02PM 17 THE COURT: And Mr. Enix does?

02:02PM 18 MR. CONNORS: Yes.

02:02PM 19 THE COURT: Mr. Pirk and all counsel are here. Go  
02:02PM 20 ahead.

02:02PM 21 MR. TRIPI: We're dealing with the Marsh Harbor  
02:02PM 22 pursuant to the -- pursuant to the search warrant May 12th,  
02:02PM 23 2016. A portion of the search was pursuant to the search  
02:02PM 24 warrant. The other portion of the search was a consent search.  
02:02PM 25 Mr. Enix was not there and his wife was there. And so items

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02:02PM 2 generally found, and I'll show you the photos, there was  
02:02PM 3 firearm evidence and other evidence that was seized, which  
02:03PM 4 included burner phones and documents. Specifically, the  
02:03PM 5 documents for all of the searches were conducted in Western  
02:03PM 6 District of New York, so the documentation that we left in the  
02:03PM 7 clubhouses was recovered from Mr. Enix's closet.

02:03PM 8 THE COURT: Say that again.

02:03PM 9 MR. TRIPI: All of the search warrant materials  
02:03PM 10 that were left in clubhouses here, he had copies of them in the  
02:03PM 11 closet.

02:03PM 12 THE COURT: I don't know what that means.

02:03PM 13 MR. TRIPI: When we execute a search warrant, they  
02:03PM 14 leave an inventory and return.

02:03PM 15 THE COURT: Like the receipt that you are leaving.

02:03PM 16 MR. TRIPI: They were located in the closet in his  
02:03PM 17 house in Florida, and every search that we did in the Buffalo  
02:03PM 18 area, this is received, 136.44. This is the area where the  
02:03PM 19 clothes are pulled out, and you'll see that in one of the  
02:03PM 20 photos, and this is all Kingsman-related material as well as  
02:03PM 21 some firearms or firearm components.

02:03PM 22 Can we go to 136.180, Ms. Prawel. So you had a  
02:03PM 23 box of Kingsmen paraphernalia, shirts and things like that. I  
02:03PM 24 don't think those were seized but they are in the photograph.  
02:03PM 25 Here is a Ruger firearm, an empty box that has the manual for

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02:03PM 2 it, so the gun was not located in the house, and obviously we  
02:03PM 3 can make arguments about what that means later. The manual is  
02:03PM 4 there and then is another box for a Smith & Wesson, no firearm  
02:03PM 5 there, and I'll wait to go through the photos for other  
02:03PM 6 firearms.

02:03PM 7 THE COURT: Anything in either of the gun boxes  
02:03PM 8 other than a manual?

02:03PM 9 MR. TRIPI: No, sir, no. I believe just the  
02:03PM 10 manual, and I'll show you that in a minute in another photo,  
02:03PM 11 the actual manuals. Then here similarly what we pulled out of  
02:03PM 12 Kingsmen clubhouses, this is a tire thumper. The actual use is  
02:03PM 13 to check the air pressure like on a tractor trailer. This was  
02:03PM 14 located -- and our argument, it's similar to what is in every  
02:03PM 15 Kingsmen clubhouse. And then this crate here is going to have  
02:03PM 16 a lot of the documentation right on top of the box that had all  
02:03PM 17 of the Kingsmen documentation. This is a butt for a gun. It  
02:03PM 18 was not seized. It was photographed because I think they made  
02:03PM 19 a determination that it was beyond the scope of the warrant, so  
02:03PM 20 they didn't seize the butt of the gun.

02:03PM 21 THE COURT: What do you mean, the butt of the gun?  
02:03PM 22 I'm not a gun person. You're going to have to tell me what you  
02:03PM 23 mean.

02:03PM 24 MR. TRIPI: The stock of the rifle that you could  
02:03PM 25 attach to a rifle. It attaches to the stock of the gun.

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02:03PM 2 THE COURT: Okay.

02:03PM 3 MR. TRIPI: 136.90. All of the other things that  
02:03PM 4 I'm showing you come out of the crate. 136.97.

02:03PM 5 THE COURT: Remind me the date of the search.

02:03PM 6 MR. TRIPI: May 12th, 2016. This is a leather --  
02:03PM 7 essentially like a flapjack. It's a blunt object you would use  
02:03PM 8 to strike someone. It's heavy lead in the end and has like a  
02:03PM 9 whipping action. So that was in the crate with what I'll say  
02:03PM 10 is Kingsmen documentation.

02:03PM 11 146.95, we located the manual for a tech 9 firearm  
02:03PM 12 and that was not in the house.

02:03PM 13 THE COURT: Is that from one of the empty boxes?

02:03PM 14 MR. TRIPI: Let me clarify. My understanding is  
02:03PM 15 this came out of the crate that had all of the other documents  
02:03PM 16 in it. I'm being corrected. There is a blue box taken out of  
02:03PM 17 the crate before they're laid out in the photographs. This  
02:03PM 18 manual was in the blue box in the crate before the photos were  
02:03PM 19 taken amongst those items. And then as far as unrecovered  
02:03PM 20 firearms, this is a manual for a Glock, Government's Exhibit  
02:03PM 21 136.96.

02:03PM 22 Now, my argument on this is this is a missing  
02:03PM 23 anti-personnel going back to the Tech-9, that is not a  
02:03PM 24 hunting-type rifle.

02:03PM 25 THE COURT: It's a missing what?

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02:03PM 2 MR. TRIPI: That is it, an anti-personnel you use  
02:03PM 3 to shoot people that is not a target, a gun you use for target  
02:03PM 4 practice or hunting.

02:03PM 5 THE COURT: I mean, is it illegal under Florida  
02:03PM 6 law?

02:03PM 7 MR. TRIPI: I don't know. I'm arguing that is.

02:03PM 8 MR. GRABLE: It is.

02:03PM 9 THE COURT: Legal or illegal?

02:03PM 10 MR. GRABLE: Legal.

02:03PM 11 MR. TRIPI: I'm arguing it's illegal under federal  
02:03PM 12 law.

02:03PM 13 THE COURT: I know that and that is a great point.  
02:03PM 14 Because it's illegal under federal law when you use it, possess  
02:03PM 15 it in furtherance of violence or drugs.

02:03PM 16 MR. TRIPI: And my argument is it's not here. So  
02:03PM 17 he has possessory interest in a firearm as part of an  
02:03PM 18 organization that there is firearms flowing through it, so to  
02:03PM 19 speak, and we can't find this gun. So it's the logical  
02:03PM 20 inference.

02:03PM 21 THE COURT: Isn't this the same gun that was in  
02:03PM 22 Caruso's pants?

02:03PM 23 MR. TRIPI: Similar.

02:03PM 24 THE COURT: I don't think he loaned it to Caruso,  
02:03PM 25 though.



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02:03PM 2 In that crate. This is less controversial, but  
02:03PM 3 Blaze, Kingsmen MC business cards with his phone number on it.  
02:03PM 4 I won't bother pulling that up.

02:03PM 5 THE COURT: None of this is at issue in terms of  
02:03PM 6 coming into evidence. Other than the guns, that is it.

02:03PM 7 MR. TRIPI: I'm trying to link the proximity to  
02:03PM 8 the guns like you do with the drugs. I'm trying to link the  
02:03PM 9 proximity of the firearms and the ammunition to the Kingsmen  
02:03PM 10 materials.

02:03PM 11 THE COURT: Was there anything in the crate in  
02:03PM 12 these boxes that were actually pulled out that was non-Kingsmen  
02:03PM 13 related?

02:03PM 14 MR. TRIPI: As far as I understand it, in the  
02:03PM 15 crate was newspaper articles about Mr. Jenkins' state trial and  
02:03PM 16 our search warrants and so if there was something that isn't,  
02:03PM 17 it's nothing I took an interest in and made myself aware of.  
02:03PM 18 The items I'm aware of were all Kingsmen related and they do  
02:03PM 19 with this case.

02:03PM 20 The Lugar box is 136.81. If we can get that  
02:03PM 21 pulled up, another unlocated firearm. And the manual for that  
02:03PM 22 is 136.83. And the whole house was searched. Can we go to  
02:03PM 23 136.83. So that is it, the firearm that should be in the  
02:03PM 24 house. 136.89 is a firearm cleaning kit. 136.76, that was  
02:03PM 25 next to the boxes in the corner of the closet. This is a

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02:03PM 2 firearm, your Honor, which is depicted in 136.77.

02:03PM 3 And then under his bed between the mattress of the  
02:03PM 4 bed, if you look at 136.71, there was another firearm located  
02:03PM 5 in the master bed. And 136.72 shows that out of the holster  
02:03PM 6 made safe. That is a carbide -style firearm.

02:03PM 7 THE COURT: Meaning?

02:03PM 8 MR. TRIPI: We've heard references to carbide  
02:03PM 9 firearms during crosses of government witnesses.

02:03PM 10 THE COURT: What does that mean?

02:03PM 11 MR. TRIPI: It's the style, I guess, of the type  
02:03PM 12 of weapon it is. Then in the box that was in the crate, so  
02:03PM 13 136.102, this is a box that was in that crate. You see more  
02:03PM 14 ammunition next to the crate. Sorry.

02:03PM 15 And either in the box or next to the crate was the  
02:03PM 16 article about Jenkins' state trial, 136.105. I think you can  
02:03PM 17 almost see it in the box. Also in the box and in the crate,  
02:03PM 18 without having the agent here who actually seized it, I'm  
02:03PM 19 covering myself a little bit about one of the two that were  
02:03PM 20 next to each other, burner phones. These phones had initials  
02:03PM 21 programmed into them, four initials.

02:03PM 22 THE COURT: I remember this from the defense.

02:03PM 23 MR. TRIPI: And they were 716 numbers. We were  
02:03PM 24 never able to fully identify who D was, for example, but they  
02:03PM 25 had very limited contact numbers in them.

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02:03PM 2 136.109, Ms. Prawel. We certainly heard the  
02:03PM 3 testimony of burner phones up to this point in the trial. I'll  
02:03PM 4 say in the box or the crate.

02:03PM 5 THE COURT: This is no argument that these can't  
02:03PM 6 come in.

02:03PM 7 MR. TRIPI: I'm, again, it's in proximity to the  
02:03PM 8 firearms.

02:03PM 9 THE COURT: The subject of your motion in limine  
02:03PM 10 was the guns.

02:03PM 11 MR. GRABLE: Everything related to the guns as  
02:03PM 12 well.

02:03PM 13 MR. TRIPI: I don't recall that.

02:03PM 14 THE COURT: I don't recall that.

02:03PM 15 MR. GRABLE: I don't have it with me, but I have a  
02:03PM 16 clear recollection, anything related to the guns.

02:03PM 17 THE COURT: And perhaps you're right.

02:03PM 18 MR. GRABLE: And I'll check it to make sure.

02:03PM 19 THE COURT: You could be right, Mr. Grable. As  
02:03PM 20 you're saying that, I think you're correct. So was there any  
02:03PM 21 information retrievable from the phones?

02:03PM 22 MR. TRIPI: There was an initial and then a phone  
02:03PM 23 number. And then a 716 area code.

02:03PM 24 THE COURT: And we know they are burner phones?

02:03PM 25 MR. TRIPI: Very limited information in them,

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02:03PM 2 consistent with flip phones, which are, in this day and age,  
02:03PM 3 those are the phones that are sold in the prepackaged style.

02:03PM 4 THE COURT: Who would be able to testify to that,  
02:03PM 5 though?

02:03PM 6 MR. TRIPI: We already had Agent Pinder, who  
02:03PM 7 downloaded Filip Caruso's Cricket phone, that was a flip phone,  
02:03PM 8 and Monica Brown, and linked Mr. Pirk to a burner phone she had  
02:03PM 9 in plastic.

02:03PM 10 THE COURT: But, I mean, you don't know if they  
02:03PM 11 are just old cell phones. And, I mean, I have old cell phones  
02:03PM 12 like that.

02:03PM 13 MR. TRIPI: I don't think you have A, B, C and D  
02:03PM 14 with 716.

02:03PM 15 THE COURT: No, I don't.

02:03PM 16 MR. TRIPI: That is my argument, that the nature  
02:03PM 17 of what was in them makes it clear.

02:03PM 18 THE COURT: I just want to make sure I'm  
02:03PM 19 understanding correctly. It's not possible, is it, from a cell  
02:03PM 20 phone like that, to ascertain whether or not it was a prepaid  
02:03PM 21 plan or it's a phone that was on an operating plan?

02:03PM 22 MR. TRIPI: I don't believe that.

02:03PM 23 MR. CONNORS: I didn't hear the end of the  
02:03PM 24 question.

02:03PM 25 THE COURT: Whether it was a phone or prepaid plan

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02:03PM 2 or that it was a regular monthly service phone and it is just  
02:03PM 3 an old looking phone.

02:03PM 4 MR. CONNORS: Subscription.

02:03PM 5 MR. TRIPI: And my answer is, I don't believe we  
02:03PM 6 could say that.

02:03PM 7 MR. GRABLE: Then I guess is there any data pulled  
02:03PM 8 from these phones connecting these phones related to Kingsmen?

02:03PM 9 THE COURT: It doesn't look like it.

02:03PM 10 MR. TRIPI: It's a very strong inference when you  
02:03PM 11 have four numbers and one letter next to each number, which is  
02:03PM 12 very cryptic, I think. There are strong arguments to be made.

02:03PM 13 THE COURT: Okay.

02:03PM 14 Before you go ahead, Mr. Enix is contending that  
02:03PM 15 the documentation that Mr. Tripi wants to introduce that was  
02:03PM 16 found should also be kept out under 403.

02:03PM 17 MR. GRABLE: Certainly, all of the gun-related  
02:03PM 18 documentation, yes. Absent some connection to some illegal  
02:03PM 19 conduct consistent with the arguments we made in the written  
02:03PM 20 submission, even the empty boxes, all gun-related  
02:03PM 21 paraphernalia, manuals, boxes, we would also -- we would move  
02:03PM 22 to preclude the burner phones, absent some similar issue,  
02:03PM 23 absent some connection or data culled from the phones to  
02:03PM 24 suggest they are connected to any.

02:03PM 25 MR. TRIPI: There was one call, a 716, on December

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02:03PM 2 4th, I don't remember.

02:03PM 3 THE COURT: September 4th, 2014?

02:03PM 4 MR. CONNORS: Call to whom?

02:03PM 5 MR. TRIPI: I wish I knew, I wish I knew.

02:03PM 6 THE COURT: Did he get a number?

02:03PM 7 MR. TRIPI: You want to tell us? There is a  
02:03PM 8 number in the phone.

02:03PM 9 MR. GRABLE: There are phone calls in, calls would  
02:03PM 10 come to various people.

02:03PM 11 THE COURT: But you would agree with me here you  
02:03PM 12 have phones in the home of the regional president of the  
02:03PM 13 Kingsmen near various other Kingsmen materials, and there is  
02:03PM 14 initials on them.

02:03PM 15 MR. TRIPI: To be clear, and I could easily have  
02:03PM 16 testimony to this account, you can delete, like any other  
02:03PM 17 phone, you can delete the call log. What we had for Samsung  
02:03PM 18 phone is letter D in the contact list, 716-255-7283, and this  
02:03PM 19 is Government Exhibit 3503.5. We had a D. We'll probably  
02:03PM 20 argue that is Drifter. And then we had a P 716-255-7282. And  
02:03PM 21 then a T 716-255-7164.

02:03PM 22 MR. CONNORS: Could you slow down with those  
02:03PM 23 numbers.

02:03PM 24 MR. TRIPI: 1762557284.

02:04PM 25 Let's pull up 3503.5.

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02:04PM 2 MR. CONNORS: D, P, T and W?

02:04PM 3 MR. TRIPI: Star 611 on September 15, 2014 at  
02:04PM 4 5:11.

02:04PM 5 THE COURT: What is star 6-1-1.

02:04PM 6 THE CLERK: Verizon customer service.

02:04PM 7 MR. TRIPI: And call on September 4th, 2014 at  
02:05PM 8 8:19.

02:05PM 9 MR. GRABLE: The other call 3852 was his wife.

02:05PM 10 MR. TRIPI: That is a phone registered to his  
02:05PM 11 wife.

02:05PM 12 MR. GRABLE: Correct.

02:05PM 13 MR. TRIPI: Right. And then the other phone is a  
02:05PM 14 205 number, 243-7455, it's got two numbers stored in it, a 352  
02:05PM 15 number, and a 205 number under the initials A and initial C.

02:05PM 16 THE COURT: The other phone, what was the two  
02:05PM 17 numbers stored under A and Z and the area codes for that. C as  
02:05PM 18 in cat?

02:05PM 19 THE COURT: Joe, you're getting frustrated.

02:05PM 20 MR. TRIPI: I'm getting talked over from three  
02:05PM 21 different angles.

02:05PM 22 A and C. A is 352 and C is a 205.

02:06PM 23 THE COURT: Deep breath.

02:06PM 24 MR. TRIPI: The second phone is a Trac phone.

02:06PM 25 THE COURT: 352, 205, the geographical.

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02:06PM 2 MR. TRIPI: Florida and I don't know the other.

02:06PM 3 MR. CULLINANE: Alabama.

02:06PM 4 MR. TRIPI: Alabama, I'm told.

02:06PM 5 As we learn from Scott Johnson, the area code.

02:06PM 6 THE COURT: I know that. Trust me, I know that.

02:06PM 7 MR. TRIPI: So if I can move on to Exhibit

02:06PM 8 136.118. It doesn't show them all there, there are the search

02:06PM 9 warrant documents for each of the clubhouses.

02:06PM 10 MR. CONNORS: Without talking over you, if I could

02:06PM 11 correct you, that 205 is both Alabama and Ohio.

02:06PM 12 MR. TRIPI: Actually, you're correcting Brendan.

02:07PM 13 That's fine.

02:07PM 14 MR. CONNORS: Brendan, sorry. Rarely happens.

02:07PM 15 THE COURT: You just got thrown under the bus.

02:07PM 16 MR. CULLINANE: I apologize.

02:07PM 17 THE COURT: You said 205, both is Alabama and

02:07PM 18 Ohio.

02:07PM 19 MR. CONNORS: I did.

02:07PM 20 MR. TRIPI: So these search warrant materials were

02:07PM 21 in the crate. And they were seized as it relates to each

02:07PM 22 clubhouse. And there are additional photos of what appear to

02:08PM 23 be his Nomad vest, his wife's vest, and I showed you a lot of

02:08PM 24 these at the detention hearing.

02:08PM 25 THE COURT: I remember that.



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02:08PM 2 I thought there were other firearms seized.

02:08PM 3 MR. TRIPI: It was two firearms and then multiple  
02:08PM 4 boxes and --

02:08PM 5 THE COURT: What about the hollow-point bullets?

02:08PM 6 MR. TRIPI: That was in the one exhibit that I  
02:08PM 7 showed you. The box, if we can go back, Ms. Prawel, to  
02:08PM 8 136.103, which was in the box where I believe the news article  
02:08PM 9 came out of.

02:08PM 10 THE COURT: Can I see that?

02:09PM 11 MR. TRIPI: 136.102, Ms. Prawel, please.

02:09PM 12 THE COURT: And it looks like they are on top of  
02:09PM 13 something. What is underneath it. A patch.

02:09PM 14 MR. TRIPI: A Harley-Davidson patch. And I can't  
02:09PM 15 tell what's under the plastic bag. There is something related  
02:09PM 16 to Kingsmen and U.S. Marshals right there that it's on top of.  
02:09PM 17 And if you go back a little bit, it's referencing the September  
02:09PM 18 6th prosecution, I believe that to be the news article that I  
02:09PM 19 showed you earlier, which was the news article, and I'm  
02:10PM 20 informed there are more hollow points in the bag right there.

02:10PM 21 THE COURT: Wasn't there other ammunition that was  
02:10PM 22 found?

02:10PM 23 MR. TRIPI: Yeah, in a Smith & Wesson box. I  
02:10PM 24 believe there was ammunition as well as the firearms were  
02:10PM 25 loaded. But the hollow points were the --

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02:10PM 2 THE COURT: The caliber of the hollow points, do  
02:10PM 3 they match any of the firearms that were actually physically  
02:10PM 4 present?

02:11PM 5 MR. TRIPI: These are the hollow points.

02:11PM 6 THE COURT: Can I see them?

02:11PM 7 MR. TRIPI: They are 38 special. Agent Donnelly  
02:11PM 8 told me these are the hollow points in the carrying case that  
02:11PM 9 is in the picture and the 38 Special would be the Ruger  
02:12PM 10 revolver that we did not locate, which is this gun right here.  
02:12PM 11 So, essentially, Judge, as to the firearms and ammunition and  
02:12PM 12 the manuals that reference that other firearms should have been  
02:12PM 13 there, my argument is similar as I would make in a drug case.  
02:12PM 14 It's all in proximity to Kingsmen paraphernalia, Kingsmen  
02:12PM 15 materials. The tire thumper, the guns, those are the types of  
02:12PM 16 weapons you've seen entered in the clubhouses, from the tire  
02:12PM 17 thumpers you heard reference in other testimony.

02:12PM 18 THE COURT: What was the name you attributed that  
02:12PM 19 other piece of --

02:12PM 20 MR. TRIPI: A tire thumper.

02:12PM 21 MR. GRABLE: Flap Jack.

02:13PM 22 THE COURT: Flap Jack.

02:13PM 23 MR. TRIPI: And the ammunition coming -- hollow  
02:13PM 24 point, obviously, that is meant for maximum damage. It's not a  
02:13PM 25 round that you would target practice with or hunt with.

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02:13PM 2 THE COURT: It's more expensive than regular  
02:13PM 3 ammunition, right?

02:13PM 4 MR. TRIPI: It is. I believe the Tek-9 speaks for  
02:13PM 5 itself, is the type of gun someone would have that for and  
02:13PM 6 similar to the type of gun Mr. Caruso had. Of the phones with  
02:13PM 7 cryptic information in them, with some call indicating they  
02:13PM 8 were being used around that point in time with the  
02:13PM 9 understanding that data can be deleted from any phone and when  
02:13PM 10 it's deleted, it's gone. We've heard that the storage capacity  
02:13PM 11 for these providers, and this is a substantial provider like  
02:14PM 12 Verizon, is only three to five days for that. We would have  
02:14PM 13 been long out of the box by the time we seized these to be able  
02:14PM 14 to get any data from any source, whether a third-party provider  
02:14PM 15 or in the phones, if they were available.

02:14PM 16 And I'm told in the bag there were additional 380  
02:14PM 17 rounds, Judge. These are also hollow-point 380 rounds,  
02:14PM 18 different than the 38 special.

02:14PM 19 THE COURT: Do they match any of the guns?

02:14PM 20 MR. TRIPI: This is from a semi-automatic, not a  
02:14PM 21 revolver, and I don't believe.

02:14PM 22 THE COURT: Both the government's 136.204 on the  
02:15PM 23 one in your hand were both in the box that you showed.

02:15PM 24 MR. TRIPI: Right on top of the article for  
02:15PM 25 murders. So, your Honor, I think you understand my argument

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02:15PM 2 then.

02:15PM 3 THE COURT: I do. Can you answer, I want to know  
02:15PM 4 about the other ammunition and whether it matched anything.  
02:15PM 5 But I want to be clear, there is a box for a Ruger. There is a  
02:15PM 6 box for a Ruger?

02:15PM 7 MR. TRIPI: Yes.

02:15PM 8 THE COURT: And a manual for the Ruger?

02:15PM 9 MR. TRIPI: Yes.

02:15PM 10 THE COURT: And there is the manual for Tek-9?

02:15PM 11 MR. TRIPI: Yes.

02:15PM 12 THE COURT: And was there a box for the Tek-9?

02:15PM 13 MR. TRIPI: Not that we saw labeled "Tek-9."

02:15PM 14 THE COURT: There is another box. That was Smith  
02:15PM 15 & Wesson?

02:15PM 16 MR. TRIPI: Yes.

02:15PM 17 THE COURT: And what kind of firearm -- we don't  
02:15PM 18 know. It was just a Smith & Wesson box?

02:15PM 19 MR. TRIPI: Correct.

02:15PM 20 THE COURT: And then the firearms that you did  
02:15PM 21 recover were two, correct?

02:16PM 22 MR. TRIPI: The two firearms that were in the  
02:16PM 23 photos, I believe it was a 9-mm Glock.

02:16PM 24 We do have the Smith & Wesson 380.

02:16PM 25 THE COURT: It's a 380?

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02:16PM 2 MR. TRIPI: Yes.

02:16PM 3 THE COURT: So the caliber for other hollow-point  
02:16PM 4 bullets would fit in there?

02:16PM 5 MR. TRIPI: Yes. It says "380" on the slide and  
02:16PM 6 these are 380.

02:16PM 7 THE COURT: Where was the Smith & Wesson firearm  
02:16PM 8 recovered?

02:16PM 9 MR. TRIPI: That was in the -- if we go back.  
02:17PM 10 It was in the gray box next to the box.

02:17PM 11 THE COURT: The Smith & Wesson 380 that the  
02:17PM 12 hollow-point bullets would fit in was in the gray lockbox.

02:17PM 13 MR. TRIPI: If we go to 146.75, Ms. Prawel. This  
02:17PM 14 is the gray lockbox that the gun is in. And then I believe  
02:17PM 15 this is the box that everything else was in.

02:18PM 16 THE COURT: The 9-mm Glock, that was under the  
02:18PM 17 bed?

02:18PM 18 MR. TRIPI: In between the mattresses.

02:18PM 19 THE COURT: But there were two firearms recovered,  
02:18PM 20 correct?

02:18PM 21 MR. TRIPI: Two.

02:18PM 22 THE COURT: And because I've been trying to keep  
02:18PM 23 track of it, we have -- I think it was Mr. Green, was it, who  
02:18PM 24 said he hugged Mr. Enix in New York?

02:18PM 25 MR. TRIPI: There was the whole thing about the

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02:18PM 2 pat down at the all-hands meeting.

02:18PM 3 MR. CONNORS: It was a hug, not a pat down.

02:18PM 4 MR. TRIPI: It ended up being a hug.

02:18PM 5 THE COURT: He thought it was a firearm, but  
02:18PM 6 couldn't identify what it was. And we have the testimony about  
02:19PM 7 the Pagan incident and the truck or the trunk full of guns.

02:19PM 8 MR. TRIPI: Yeah.

02:19PM 9 THE COURT: But is there any testimony that has  
02:19PM 10 been admitted up to this point of anyone putting a gun in Mr.  
02:19PM 11 Enix's hand?

02:19PM 12 MR. TRIPI: I believe that Mr. McIndoo did when he  
02:19PM 13 said both of them brought guns into the Pagans meeting they  
02:19PM 14 staged at the hesitation, I'm probably saying it more clearly  
02:19PM 15 than Mr. McIndoo.

02:19PM 16 MR. CONNORS: A lot more clearly.

02:19PM 17 MR. TRIPI: Don't jump down my throat.  
02:19PM 18 Essentially the crux of the testimony was they staged at the  
02:19PM 19 Hess Station. That is where Mr. McIndoo was given the street  
02:19PM 20 sweeper. And Mr. Enix and Mr. Pirk were armed. Obviously the  
02:19PM 21 inference was guns that you couldn't see that would have had to  
02:19PM 22 have been handguns. In other words, guns that the Pagans would  
02:19PM 23 not have saw and they talked about who they were going to shoot  
02:20PM 24 and the manner in which they were going to shoot after in the  
02:20PM 25 car ride back with Mr. McIndoo.

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02:20PM 2 I can point to that and the point to the trip to  
02:20PM 3 Tennessee and we certainly have evidence of everyone coming  
02:20PM 4 armed.

02:20PM 5 THE COURT: Was there any specific testimony of  
02:20PM 6 Mr. Enix with a firearm in Tennessee?

02:20PM 7 MR. TRIPI: There are Facebook messages in  
02:20PM 8 evidence about bringing in the firearms. And I believe there  
02:20PM 9 was, I'm not sure if Mr. Caruso said it explicitly. He  
02:20PM 10 certainly cataloged people who had guns.

02:20PM 11 THE COURT: There is no question you can make the  
02:20PM 12 argument and there is an inference. But with Mr. Pirk, there  
02:20PM 13 has been some specific testimony about the type of firearms  
02:20PM 14 that he had and where he had them. Even the last witness,  
02:20PM 15 Haley, was saying --

02:20PM 16 MR. TRIPI: I think someone was saying that Pirk  
02:20PM 17 -- I was trying to think of who it was, someone, I think it was  
02:20PM 18 Caruso, that said Pirk and Enix had the same kind of gun that  
02:21PM 19 he seen in New York, Glock, that is exactly it, that was who it  
02:21PM 20 was. And I asked him many times and he said as it related to  
02:21PM 21 Mr. Enix, I believe he said once. And Mr. Connors asked him he  
02:21PM 22 do you know how, he travels and flies here. And that was Mr.  
02:21PM 23 Caruso.

02:21PM 24 THE COURT: Okay.

02:21PM 25 All right, Mr. Grable.

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02:21PM 2 MR. GRABLE: Thank you, Judge. We briefed the  
02:21PM 3 legal authority and our legal arguments in the prior  
02:21PM 4 submission. I'll rely on those. When your Honor considered  
02:21PM 5 this issue in limine and to consider our submissions, the  
02:21PM 6 parties' various submissions, I think at that point in and then  
02:21PM 7 through from that point to the present, the Court has made it  
02:21PM 8 clear to the government there should be some specific  
02:21PM 9 connection between a particular firearm and testimony from a  
02:22PM 10 witness.

02:22PM 11 THE COURT: Or, I mean, it doesn't have to be the  
02:22PM 12 particular firearm, but it has to be some testimony, and I'll  
02:22PM 13 give you the cites, and, in other words, it doesn't have to be  
02:22PM 14 it was that particular Glock. But there would have to be  
02:22PM 15 somebody suggesting or testifying that Mr. Enix was seen with  
02:22PM 16 the 9 mm or similar type of firearm before I would find a link,  
02:22PM 17 I guess.

02:22PM 18 MR. GRABLE: Right. For example, there was  
02:22PM 19 testimony from, I believe it was Mr. McIndoo, that Mr. Pirk had  
02:22PM 20 a certain round cartridge case associated with a shotgun and  
02:22PM 21 there was a photograph and the witness was shown that  
02:22PM 22 photograph and he said, I think, "It looks like it. I'm not  
02:22PM 23 positive that is the one." There has been no similar testimony  
02:22PM 24 as to Mr. Enix. No witnesses have looked at a picture or  
02:22PM 25 something seized from the home and said, you know, that is what



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02:22PM 2 it looks like, what I saw him with. And you were reminding the  
02:23PM 3 government at various points as the witnesses were coming, I  
02:23PM 4 took it to mean is the kind of proof you were expecting. And I  
02:23PM 5 remember Mr. Tripi saying we have Mr. McIndoo and Mr. Caruso  
02:23PM 6 and Mr. Green and Mr. Haley, and never once did any of the  
02:23PM 7 witnesses get shown an exhibit in the manner that Mr. McIndoo  
02:23PM 8 was shown a concrete photograph with respect to this shotgun  
02:23PM 9 cylinder. And so I think for all of the reasons the Court has  
02:23PM 10 previously stated in its discussions about our motion in limine  
02:23PM 11 and for all of the legal reasons we cited before, any of the  
02:23PM 12 gun-related stuff that has not been connected to any illegal  
02:23PM 13 conduct is, in our argument, inadmissible under 401 and 403.

02:23PM 14 THE COURT: What about the argument, though, that  
02:23PM 15 the illegal conduct is the Kingsmen Motorcycle Club. And that  
02:23PM 16 finding, for instance, hollow-point bullets in a crate with all  
02:24PM 17 of the other documentation regarding the Kingsmen Motorcycle  
02:24PM 18 Club, at least there is an alleged link between the illegal  
02:24PM 19 conduct, the Kingsman Motorcycle Club, and the material the  
02:24PM 20 government is seeking to introduce?

02:24PM 21 MR. GRABLE: By that logic, any firearm found  
02:24PM 22 completely unconnected like these would be admissible. But the  
02:24PM 23 case --

02:24PM 24 THE COURT: There is no case directly on point.

02:24PM 25 MR. GRABLE: I think your Honor indicated

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02:24PM 2 throughout, there should be something more to connect. In  
02:24PM 3 particular, we have the gun counts in the case.

02:24PM 4 THE COURT: My view is, there has to be a link,  
02:24PM 5 either it has to be found at the crime scene, which could be  
02:24PM 6 the clubhouses, not Mr. Enix's home. There has to be a link  
02:24PM 7 with the alleged criminal activity or the defense has to open  
02:24PM 8 the door, which I don't view that you haven't made a claim up  
02:24PM 9 to this point that, for instance, Mr. Enix didn't like  
02:25PM 10 firearms, never touched a firearm. If you were to try and make  
02:25PM 11 a claim like that, that would be opening the door. So really,  
02:25PM 12 at this point, the basis, from my perspective, for the  
02:25PM 13 government to get this in is there has to be a link with the  
02:25PM 14 alleged criminal activity and these materials.

02:25PM 15 MR. GRABLE: Correct. And the reality is that Mr.  
02:25PM 16 Enix and his family, his wife and children, they are hunters,  
02:25PM 17 all of them. They boar hunt in Florida. I think the  
02:25PM 18 government probably found in the computer where he is an avid  
02:25PM 19 hunter and as are his wife and kids. The absence of any  
02:25PM 20 link --

02:25PM 21 THE COURT: But let me ask you this. Because when  
02:25PM 22 you're dealing with, for instance, like a hollow-point bullet,  
02:25PM 23 which is a different type of ammunition than what it would  
02:25PM 24 normally be, and on top of all of this material related to  
02:25PM 25 Kingsmen, isn't there at least an argument that there is some

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02:26PM 2 link there?

02:26PM 3 MR. GRABLE: I'm actually versed in firearms.  
02:26PM 4 I've shot regular firearms and hollow-point ammunition,  
02:26PM 5 including at federal law enforcement training centers. And  
02:26PM 6 I'll tell you in Florida, hollow points are legal and they're  
02:26PM 7 often kept in a person's home. They're better for personal  
02:26PM 8 protection, if someone breaks into your house. If you're going  
02:26PM 9 to use a firearm to defend your home, you want to shoot for  
02:26PM 10 center mass, which is the center of the person, and you want a  
02:26PM 11 cartridge that will take out the person who has invaded your  
02:26PM 12 home. So none of this is suggestive of illegal conduct, per  
02:26PM 13 se, as something that the state of Florida says you want to  
02:26PM 14 protect your home with hollow-point ammunition, you can.

02:26PM 15 THE COURT: But what about the fact it's found  
02:26PM 16 right on top of the patches of Harley-Davidson and a newspaper  
02:26PM 17 article about the murders?

02:26PM 18 MR. GRABLE: The one gun is found in a gray box.

02:27PM 19 THE COURT: I'm talking about bullets.

02:27PM 20 MR. GRABLE: Neither gun is found near the  
02:27PM 21 paperwork. And the ammunition in the box, I don't know what  
02:27PM 22 else is in the box, to me the more pertinent question is where  
02:27PM 23 were the guns found. And then the fundamental question, the  
02:27PM 24 one the Court is asking, is there a link between that gun and  
02:27PM 25 any of the conduct that has been develop during the course of

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02:27PM 2 the trial, and we have heard no link.

02:27PM 3 THE COURT: About the thumper that Paul Maue was  
02:27PM 4 using. There has been testimony that he was using a piece of  
02:27PM 5 equipment like that.

02:27PM 6 MR. CONNORS: No link to Enix.

02:27PM 7 THE COURT: There is a link of a thumper to  
02:27PM 8 criminal activity and you find a thumper in Mr. Enix's home in  
02:27PM 9 a box or close proximity to other Kingsmen-related material.

02:27PM 10 MR. GRABLE: The tire thumper, I think the  
02:27PM 11 testimony about Maue was mini baseball bat.

02:27PM 12 THE COURT: Somebody referred to as a --

02:27PM 13 MR. GRABLE: Somebody said a mallet. There is  
02:28PM 14 clearly no allegation this thumper was connected with the any  
02:28PM 15 of the witnesses. This was on the floor of the closet, but I  
02:28PM 16 could be wrong, and I don't see a link and any of the conduct  
02:28PM 17 developed through the course of the trial.

02:28PM 18 THE COURT: And what about the flap jack, it was  
02:28PM 19 found in the box, right?

02:28PM 20 MR. GRABLE: Same argument.

02:28PM 21 THE COURT: The flap jack was in the box. Can I  
02:28PM 22 see it?

02:28PM 23 MR. GRABLE: Also legal in the state of Florida.

02:28PM 24 THE COURT: And I'm assuming a tire thumper is  
02:28PM 25 legal.

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02:28PM 2 THE COURT: What is the legitimate purpose of  
02:28PM 3 something like that?

02:28PM 4 MR. GRABLE: Self defense tool.

02:28PM 5 MR. TRIPI: Particularly if you're the regional  
02:29PM 6 president of the Kingsmen and people don't like you like the  
02:29PM 7 Outlaws.

02:29PM 8 MR. CONNORS: All right, all right.

02:29PM 9 MR. TRIPI: It's my argument.

02:29PM 10 MR. GRABLE: Everything is sinister.

02:29PM 11 THE COURT: Anything else, Mr. Grable.

02:29PM 12 MR. GRABLE: Judge, the KMC related business cards  
02:29PM 13 and the patches on the vest, given the testimony given so far,  
02:29PM 14 that is relevant. And so the business cards and patches and  
02:29PM 15 vest, anything related to the guns and certainly the newspaper  
02:29PM 16 articles as well. I know we've had prior argument on that.  
02:29PM 17 And we object to the burner phones subject to connection. Any  
02:29PM 18 suggestion (a) they were burner phones. That these were burner  
02:29PM 19 phones and used with any conduct pertinent to this case. Same  
02:29PM 20 arguments as to those.

02:29PM 21 MR. TRIPI: Judge, I'm informed that per the FBI  
02:29PM 22 agent Dave Brown, it's legal to own that. It is illegal to  
02:30PM 23 carry it concealed.

02:30PM 24 THE COURT: Flap jack. What about, the guns were  
02:30PM 25 legal in Florida, correct? I mean, in other words --

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02:30PM 2 MR. TRIPI: As far as I understand, Florida is a  
02:30PM 3 firearm friendly state.

02:30PM 4 THE COURT: Were they registered to anyone or did  
02:30PM 5 they not have to be registered?

02:30PM 6 MR. TRIPI: You know, Judge, I'm sure they were  
02:30PM 7 run. I need to double check that.

02:30PM 8 THE COURT: Hasn't there been some suggestion that  
02:30PM 9 Mrs. Enix --

02:30PM 10 MR. CONNORS: She has a permit.

02:30PM 11 MR. TRIPI: There are additional witnesses coming  
02:30PM 12 up that if I still can't get this stuff in. I am going to  
02:30PM 13 wait. I have Koszuta to go and still have Long and to go and  
02:30PM 14 Fritts and a couple of other Kingsmen as well. So if I need to  
02:30PM 15 wait on this, I'm going to wait on it. But I do think there is  
02:30PM 16 sufficient evidence in the record as of this date. But I would  
02:30PM 17 go back to *Patino*, it's not the particular firearm that makes  
02:31PM 18 it a 924(c). To the extent counsel was saying I have to link a  
02:31PM 19 particular firearm, that is inaccurate. Caruso was shown a  
02:31PM 20 photo of Pirk's Glock and was shown a picture again and he said  
02:31PM 21 Enix's Glock was just like that. Caruso, as I stood here, I  
02:31PM 22 thought he said they were armed in the clubhouses when they got  
02:31PM 23 there, separate and apart from guns that were in the trunks.  
02:31PM 24 He said Pirk and Enix had guns on their person. And I always  
02:31PM 25 said from the start, I'm never going to be able to say, with

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02:31PM 2 the exception of that is the gun as the street sweeper.

02:31PM 3 THE COURT: I'm not suggesting that you need that,  
02:31PM 4 but I have the been of the mind-set that you need to have  
02:31PM 5 somebody on the witness stand saying this the type of gun that  
02:31PM 6 I saw Mr. Enix with and then show him a photograph and I would  
02:32PM 7 say, yes, that looks like the gun that I saw Mr. Enix with.

02:32PM 8 MR. TRIPI: I believe so far we've linked them to  
02:32PM 9 handguns Glocks and the two guns you see in the house look  
02:32PM 10 similar to that.

02:32PM 11 THE COURT: But we haven't had anyone shown a  
02:32PM 12 picture of one of these firearms and I said yes that looks like  
02:32PM 13 the gun that I saw Mr. Enix with.

02:32PM 14 MR. TRIPI: You're right. I only showed Caruso  
02:32PM 15 Pirk's Glock and he said Enix looked like that. I didn't, on  
02:32PM 16 the spot, pause and find a gun from Enix's house. You're  
02:32PM 17 right. But a Glock is a Glock and we have a Glock. I didn't  
02:32PM 18 think it was worth the time to find that photo in that moment.  
02:32PM 19 But Caruso puts them with guns in the Florida clubhouse when he  
02:32PM 20 gets there and also puts them armed in New York. And Enix was  
02:32PM 21 one particular occasion. McIndoo has them armed going into the  
02:32PM 22 Pagan meeting with what we can infer are handguns based on the  
02:33PM 23 testimony. I don't recall Masse, I'm going to look that up.  
02:33PM 24 Green says that he believes Enix is armed in the all-hands  
02:33PM 25 meeting based on the bulge during the hug.

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02:33PM 2 THE COURT: I'll tell you right now, Green's  
02:33PM 3 testimony isn't going to do it.

02:33PM 4 MR. TRIPI: I'm giving you a list.

02:33PM 5 THE COURT: He felt something, something that felt  
02:33PM 6 like a gun.

02:33PM 7 MR. TRIPI: He definitely was weaker on the stand  
02:33PM 8 than he had been prior. I concede to you that.

02:33PM 9 MR. CONNORS: How come you didn't yell at him?

02:33PM 10 MR. TRIPI: I was less firm with him. It wasn't  
02:33PM 11 my witness.

02:33PM 12 MR. CONNORS: Good point.

02:33PM 13 MR. TRIPI: And then Mr. Haley's post  
02:33PM 14 contemporaneous with the Tennessee trip consistent with  
02:33PM 15 Caruso's testimony, people were armed, and, in fact, Haley was  
02:33PM 16 armed.

02:33PM 17 THE COURT: He doesn't say anything specifically  
02:33PM 18 about Tim Enix.

02:33PM 19 MR. TRIPI: He said people were armed and Enix  
02:34PM 20 talked about bringing the guns in. I think we can infer that  
02:34PM 21 Enix has a gun. And especially when you look on the Facebook  
02:34PM 22 post, Haley is talking about Enix and 20 shooters going to  
02:34PM 23 Tennessee. There is no objection to that. That could be  
02:34PM 24 characterized as an adoptive admission.

02:34PM 25 THE COURT: Say that again.



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02:34PM 2 MR. TRIPI: An adoptive admission.

02:34PM 3 THE COURT: What is the adopted admission?

02:34PM 4 MR. TRIPI: Haley is saying 20 shooters went to  
02:34PM 5 Tennessee and Enix is on that list and you don't have anyone  
02:34PM 6 say, no, we weren't. We weren't armed. We weren't shooters.  
02:34PM 7 No. Everyone is skipping along. That is they were proud of  
02:34PM 8 and that is what he got praised for. And I don't think we  
02:34PM 9 could divorce the possession of his guns from his position in  
02:34PM 10 this gang that he joined in 2012. And so I believe every where  
02:34PM 11 he goes, he is a Kingsmen. Just like a drug dealer in a drug  
02:35PM 12 conspiracy, every where they go, they are a drug dealer. And  
02:35PM 13 repeated possessions of that gun would be relevant in a drug  
02:35PM 14 conspiracy, I believe they are just as relative and probative  
02:35PM 15 here.

02:35PM 16 THE COURT: Here is the problem I'm having with it  
02:35PM 17 though. The search was done on May 12th, 2016. At that point  
02:35PM 18 Mr. Enix had been in custody two months?

02:35PM 19 MR. TRIPI: Approximately.

02:35PM 20 THE COURT: So he has been out of the house for  
02:35PM 21 approximately two months. The fact that the firearms, in  
02:35PM 22 particular, are found in or near the proximity of other  
02:35PM 23 Kingsmen material, we don't know if Mr. Enix put them there.  
02:35PM 24 We don't know if his wife, once he was in custody, put  
02:35PM 25 everything there.

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02:35PM 2 MR. TRIPI: She is part of the organization. She  
02:35PM 3 has her letters with the "old lady" vest. She is a Section 2.  
02:35PM 4 We didn't indict. We didn't indict the whole family. They  
02:36PM 5 have drug tests in their phone.

02:36PM 6 MR. CONNORS: Oh, Joe.

02:36PM 7 THE COURT: There has been no --

02:36PM 8 MR. TRIPI: I'm not introducing Cory's phone with  
02:36PM 9 me Linda Enix, but they are aware of it.

02:36PM 10 MR. CONNORS: I hope you understand that when he  
02:36PM 11 goes off like this, we dispute everything he says. We haven't  
02:36PM 12 had a chance to talk. I don't want you to think acquiescing to  
02:36PM 13 the comments.

02:36PM 14 THE COURT: I know.

02:36PM 15 MR. TRIPI: Cory Picks didn't have him on the  
02:36PM 16 phone.

02:36PM 17 MR. CONNORS: You know none of the backgrounds.

02:36PM 18 MR. TRIPI: Yes or no?

02:36PM 19 MR. CONNORS: I'm not on trial.

02:36PM 20 THE COURT: I go back to the United States vs.  
02:36PM 21 Arlene, I'm not suggesting to you, Mr. Tripi, that you don't  
02:36PM 22 have to establish the firearm, I'm not suggesting to you that  
02:36PM 23 you need to establish the firearm at issue. No question about  
02:36PM 24 it. The Patino case, and I'll give you the cite so it's clear,  
02:37PM 25 962 F. 2d 263, Second Circuit from 1992, makes it clear that

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02:37PM 2 the type of firearm alleged in the indictment or the type of  
02:37PM 3 firearm is not an essential element of a 924(c) count. I go  
02:37PM 4 back though to United States vs. Arlene 835 F. 3d 277, Second  
02:37PM 5 Circuit case from 2016, where there were objections to the  
02:37PM 6 reliance to guns, block guns in support of a 924(c) conviction.  
02:37PM 7 And the government sought to link the firearms to the  
02:37PM 8 respective counts. But, in that case, the firearms were found  
02:38PM 9 on the lander street in Newburg. They were so-called block  
02:38PM 10 guns to be used when needed and the defendant was seen on  
02:38PM 11 Lander Street in possession of one of the block guns.

02:38PM 12 I also, I've done a lot of research on this. The  
02:38PM 13 only other cites I'll put on the record that I was able to come  
02:38PM 14 up with were a couple of state court citations. But they are  
02:38PM 15 at least helpful in some regard. One is People vs. Early, 191  
02:38PM 16 AD 2nd 807 Third Department from 1993 where the defendant  
02:38PM 17 objected to a club being introduced for an assault and robbery,  
02:38PM 18 but the Court found that there was sufficient evidence  
02:38PM 19 connecting the club with the defendant because there was  
02:39PM 20 testimony that it looked like the club used during the assault.  
02:39PM 21 Another similar state court case, People vs. Ferrara 105 AD 2nd  
02:39PM 22 497 Third Department from 1984 that reached a similar  
02:39PM 23 conclusion.

02:39PM 24 Look it, I'm not suggesting there is no probative  
02:39PM 25 value at all. There is. But I got to weigh it against the

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02:39PM 2 danger of unfair prejudice with respect to the suggestion that  
02:39PM 3 is going to be made that Mr. Enix actually used these firearms,  
02:39PM 4 including firearms that maybe at one point in time were  
02:39PM 5 contained in an empty box in support of this criminal activity.  
02:39PM 6 And you look like --

02:39PM 7 MR. TRIPI: I wanted to wait.

02:39PM 8 THE COURT: And I just don't see that you have  
02:39PM 9 established enough of a probative value. Because basically  
02:40PM 10 what you're relying on at this point, and I have to go back and  
02:40PM 11 look at the Caruso testimony, I guess I don't -- I don't off  
02:40PM 12 the top of my head recall what he said. What I know you don't  
02:40PM 13 have in the record is you don't have anyone who has testified  
02:40PM 14 that Mr. Enix had this particular firearm and then shown a  
02:40PM 15 picture and said, yes, that looks like the firearm that I saw  
02:40PM 16 him have. You do have that with Mr. Pirk, but you don't have  
02:40PM 17 that with Mr. Enix. So the fact that they are found in close  
02:40PM 18 proximity to the Kingsmen Motorcycle Club documentation isn't  
02:40PM 19 enough because Mr. Enix wasn't living in this home at the time  
02:40PM 20 of the search.

02:40PM 21 MR. TRIPI: I have to disagree on one point, which  
02:40PM 22 is it when Caruso says they both had Glocks.

02:40PM 23 THE COURT: I have to look at that again.

02:40PM 24 MR. TRIPI: On that point. And then your Honor --

02:40PM 25 THE COURT: Is the defense disputing that Mr. Enix

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02:40PM 2 owned a Glock? I mean, in other words, I mean, I guess, I'm  
02:41PM 3 going to have to look. Let me ask the question another way.  
02:41PM 4 Is the defense disputing that Mr. Caruso testified that Mr.  
02:41PM 5 Enix was in possession of a Glock, what was it, in the New York  
02:41PM 6 or Tennessee?

02:41PM 7 MR. TRIPI: I think he put him at one point in  
02:41PM 8 Florida, excuse me, in New York, and then at the clubhouse in  
02:41PM 9 Florida.

02:41PM 10 MR. GRABLE: Judge, I would like to look at that  
02:41PM 11 again and speak to Mr. Enix as well overnight.

02:41PM 12 MR. TRIPI: I believe the Glock testimony was in  
02:41PM 13 connection with New York. And just armed, like, generic  
02:41PM 14 handgun, in Florida. That is it my recollection.

02:41PM 15 THE COURT: And if that is the case, maybe I will  
02:41PM 16 get the Glock in. I guess I want to look and see what Mr.  
02:41PM 17 Caruso' testimony is.

02:41PM 18 MR. TRIPI: One other point and we can move on as  
02:41PM 19 far as I'm concerned. The Court said "use." He is not charged  
02:42PM 20 with use.

02:42PM 21 THE COURT: He is charged as an aider and abetter  
02:42PM 22 and possession; it's a misstatement on my part.

02:42PM 23 MR. TRIPI: I just because it has connotation.

02:42PM 24 THE COURT: I get that. The burner phones, they  
02:42PM 25 will come in over the defense objection. But you can't refer

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02:42PM 2 to them as so-called burner phones. You can refer to them by  
02:42PM 3 the characteristics. That they had initials for contact  
02:42PM 4 information and 716 area codes, where they were found. But we  
02:42PM 5 don't know if they were associated to a monthly plan.

02:42PM 6 MR. TRIPI: Burner phones are for argument for me  
02:42PM 7 later, not for a witnesses to state.

02:42PM 8 THE COURT: So it's clear why I'm letting those  
02:42PM 9 in, I think the fact they are found in or around the  
02:42PM 10 Kingsmen-related material is relevant and more particularly the  
02:42PM 11 fact that they were in use on or around September of 2014 and  
02:42PM 12 then at least one of them has four different numbers with a 716  
02:43PM 13 area code with just initials on the contact information on the  
02:43PM 14 whole makes them more probative than unfairly prejudicial and  
02:43PM 15 I'll let them in.

02:43PM 16 MR. TRIPI: The tire thumper.

02:43PM 17 THE COURT: The what? The tire thumper.

02:43PM 18 MR. TRIPI: And the leather flap Jack.

02:43PM 19 THE COURT: And where was the tire thumper found?

02:43PM 20 MR. TRIPI: In the closet. I don't know if it was  
02:43PM 21 the box or the crate or one of the other closed containers.

02:43PM 22 All of it was in the closet.

02:43PM 23 THE COURT: The testimony these tire thumpers were  
02:43PM 24 in other clubhouse?

02:43PM 25 MR. TRIPI: We laid.

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02:43PM 2 THE COURT: They were found in other clubhouses?

02:43PM 3 MR. TRIPI: Yes.

02:43PM 4 THE COURT: I'll let the tire thumper in.

02:43PM 5 MR. CONNORS: Can we be heard?

02:43PM 6 THE COURT: Mr. Grable spent a whole bunch of  
02:43PM 7 times. I didn't know I needed to hear from both of you. I  
02:43PM 8 thought when Mr. Grable was addressing, he was addressing all  
02:43PM 9 of this.

02:43PM 10 MR. CONNORS: Not on the tire thumper.

02:44PM 11 THE COURT: He talked about the tire thumper. Go  
02:44PM 12 ahead. I didn't understand that you wanted.

02:44PM 13 MR. CONNORS: The point is --

02:44PM 14 THE COURT: You never hesitated to pipe up when  
02:44PM 15 you want to be heard.

02:44PM 16 MR. CONNORS: I don't. The point I want to make  
02:44PM 17 with respect to the evidence is what is otherwise not unlawful,  
02:44PM 18 there needs to be some type of a connection to make it relevant  
02:44PM 19 under 401 and to draw some logical inference. So if you have,  
02:44PM 20 we'll call the tire thumper, there is nothing in the record to  
02:44PM 21 discuss, there aren't a myriad uses for that and it's found in  
02:44PM 22 someone's closet and there is no way to see it's per se  
02:44PM 23 contraband. And I think, under the circumstances, that and the  
02:44PM 24 phones need to have some type of a logical inference that can  
02:44PM 25 be drawn from a determined piece of evidence that is tied up

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02:44PM 2 with this particular case. I think those items shouldn't be  
02:44PM 3 admissible in the absence of that link. If there is received a  
02:45PM 4 link and somebody says that is the one that Maue used or  
02:45PM 5 someone says that somebody can tie it in 401, that is okay.  
02:45PM 6 Under these circumstances, it's too attenuated. It doesn't  
02:45PM 7 really connect to make a fact or more or less probable without  
02:45PM 8 the evidence, so that is the ultimate test. Respectfully, I  
02:45PM 9 ask you to consider that.

02:45PM 10 THE COURT: Anything else?

02:45PM 11 MR. CONNORS: No.

02:45PM 12 THE COURT: Mr. Grable, anything else?

02:45PM 13 MR. GRABLE: No, thank you.

02:45PM 14 THE COURT: The tire thumper is coming in because  
02:45PM 15 as far as I'm concerned there has been enough evidence produced  
02:45PM 16 at trial that the tire thumpers were used by Kingsmen and there  
02:45PM 17 is evidence that Mr. Maue was using it at the South Buffalo  
02:45PM 18 confrontation, and evidence that tire thumpers were found  
02:45PM 19 during the searches of the various clubhouses. And the tire  
02:45PM 20 thumper was found in the closet at or around what was arguably  
02:45PM 21 Mr. Enix's material because it reflected various Kingsmen  
02:46PM 22 Motorcycle Club documentation. And when I compare that against  
02:46PM 23 any unfair prejudice, I don't view the tire thumper as  
02:46PM 24 particularly prejudicial. It's certainly not unfairly  
02:46PM 25 prejudicial. It's very different than a firearm, very



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02:46PM 2 different than a firearm and very different than hollow point  
02:46PM 3 bullets and very different than the other firearms. At least  
02:46PM 4 there was evidence of in and around the material. So the tire  
02:46PM 5 thumper is coming in.

02:46PM 6 The phones, I think, are actually even more  
02:46PM 7 probative than the tire thumper because of the fact that, in  
02:46PM 8 particular, the one phone has four numbers in the contact  
02:46PM 9 information, and they are all 716 area codes. Mr. Grable and  
02:46PM 10 Mr. Connors, you've been the first ones to try and establish  
02:46PM 11 that Florida is on a different side of the world than New York.  
02:47PM 12 And the fact that Mr. Enix has phones in his closet around the  
02:47PM 13 Kingsmen material with four different initials 716 area codes  
02:47PM 14 make them, as far as I'm concerned, very probative. Especially  
02:47PM 15 because there was evidence they were used at or about the time  
02:47PM 16 of the murders in this case.

02:47PM 17 MR. GRABLE: Just to inquire as to the numbers  
02:47PM 18 found on those phones, I don't know what data the government  
02:47PM 19 pulled.

02:47PM 20 MR. TRIPI: Just the 302, Jim.

02:47PM 21 MR. GRABLE: Do we know to whom they are attached?

02:47PM 22 THE COURT: Do we know who they are attached to?

02:47PM 23 MR. TRIPI: No, I don't know. I don't know who  
02:47PM 24 they are attached to.

02:47PM 25 THE COURT: So, you know, it goes to the weight

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02:47PM 2 and not the admissibility.

02:47PM 3 MR. GRABLE: And I take it from that the  
02:47PM 4 government never ran the number the to find out who the  
02:47PM 5 subscribers were and never ascertained the identity of the  
02:48PM 6 subscribers.

02:48PM 7 MR. TRIPI: You have whatever records we were able  
02:48PM 8 to pull.

02:48PM 9 THE COURT: You must have the subscribers.

02:48PM 10 MR. TRIPI: There is not a lot of retention time  
02:48PM 11 with some of the companies. As I stand here right now, I don't  
02:48PM 12 think Cricket.

02:48PM 13 THE COURT: The four phone numbers.

02:48PM 14 MR. TRIPI: I have to double check that. I'm sure  
02:48PM 15 it was done, but I don't have an answer for you at this second.

02:48PM 16 THE COURT: If it was done, you disclosed the  
02:48PM 17 information.

02:48PM 18 MR. TRIPI: They have every phone record we have.

02:48PM 19 THE COURT: In any event, I'm letting it in.

02:48PM 20 MR. CONNORS: Have you considered whether an  
02:48PM 21 instruction to the jury might be appropriate that would deal  
02:48PM 22 with the fact that some of these items are not per se crimes,  
02:48PM 23 some of them.

02:48PM 24 THE COURT: If you want an instruction, you're  
02:48PM 25 certainly free to propose that. In other words, I don't think

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02:48PM 2 anyone is suggesting a tire thumper is illegal. You use it to  
02:49PM 3 check tires, right? That is the name of it?

02:49PM 4 MR. CONNORS: I agree.

02:49PM 5 MR. TRIPI: The use is that. I'll make arguments  
02:49PM 6 the Kingsmen had other uses for that and evidence of the  
02:49PM 7 agreement is demonstrated by Enix has it, Paul Maue has it, all  
02:49PM 8 clubhouses have it.

02:49PM 9 THE COURT: It's a linkage between Mr. Enix and  
02:49PM 10 the tools of the trade between the Kingsmen and --

02:49PM 11 MR. TRIPI: Which is exactly what *Old Chief* tells  
02:49PM 12 us, the Supreme Court.

02:49PM 13 THE COURT: Does it?

02:49PM 14 MR. TRIPI: Yes. Doesn't have to go to the  
02:49PM 15 ultimate fact.

02:49PM 16 THE COURT: The tire thumper, and it's a bat. I  
02:49PM 17 mean, I don't see that -- - I don't think the jury will be  
02:49PM 18 confused that a tire thumper, it looks like a bat and it's not  
02:49PM 19 illegal on -- if you have concerns.

02:49PM 20 MR. CONNORS: And of the phones as well.

02:49PM 21 THE COURT: I'm not letting them elicit testimony  
02:50PM 22 they are burner phones.

02:50PM 23 MR. CONNORS: I heard that.

02:50PM 24 THE COURT: They're cell phones. I don't think  
02:50PM 25 anyone is going to suggest that a cell phone is illegal.

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02:50PM 2 MR. TRIPI: Again, it's a tool. We've had  
02:50PM 3 testimony introduced in this case that these are the kinds of  
02:50PM 4 tools that alleged members of the conspiracy used to further  
02:50PM 5 the conspiracy.

02:50PM 6 THE COURT: The firearms and ammunition, at this  
02:50PM 7 point, I'm not going to let it in.

02:50PM 8 MR. TRIPI: The hollow point?

02:50PM 9 THE COURT: The hollow point and this. There  
02:50PM 10 hasn't been objection no testimony about a flap jack up to this  
02:50PM 11 point, correct?

02:50PM 12 MR. TRIPI: No.

02:50PM 13 THE COURT: At this point, I'm not going to let it  
02:50PM 14 in.

02:50PM 15 MR. TRIPI: My inclination, if the Court is  
02:50PM 16 amenable to, in the interest of moving things along, Chris  
02:50PM 17 DePasquale does the search. I would put in the things I'm  
02:51PM 18 allowed to put in and perhaps recall him at a later date after  
02:51PM 19 I call some more Kingsmen members if I'm able to make more  
02:51PM 20 links with the ammunition and guns and other types of items,  
02:51PM 21 the flap jack, to recall him for rest of the items seized.

02:51PM 22 THE COURT: I'll allow that if, in fact, you get  
02:51PM 23 to the point and having established a link between the other  
02:51PM 24 items and Mr. Enix.

02:51PM 25 MR. TRIPI: I understand.

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02:51PM 2 THE COURT: Okay. Anything else, Mr. Tripi, we  
02:51PM 3 need to deal with before break for today?

02:51PM 4 MR. TRIPI: No. There is some scheduling I need  
02:51PM 5 to work on when I get out of here and I'll --

02:52PM 6 THE COURT: So we got Matt Allen first thing  
02:52PM 7 tomorrow morning.

02:52PM 8 MR. TRIPI: He'll be ready to go first thing in  
02:52PM 9 the morning. He is the cell towers, as you recall. And I  
02:52PM 10 expect maybe an hour on direct with him. I don't know what the  
02:52PM 11 cross will be.

02:52PM 12 MR. DEAL: I didn't know what -- I haven't crossed  
02:52PM 13 with more than fifteen minutes.

02:52PM 14 MR. TRIPI: You've been great.

02:52PM 15 THE COURT: You have the most improved award.

02:52PM 16 MR. DEAL: I'm due. I'll take the most improved  
02:52PM 17 award.

02:52PM 18 THE COURT: I haven't awarded it yet.

02:52PM 19 MR. TRIPI: My thought, it's a half day tomorrow.

02:52PM 20 THE COURT: Until 1:30 p.m.

02:52PM 21 MR. TRIPI: So my thought, Matt Allen and  
02:53PM 22 DePasquale for what we're permitted to get in Donnelly for  
02:53PM 23 later search warrant, which would be some more devices and  
02:53PM 24 short testimony. And Mango, which I wasn't -- sorry about  
02:53PM 25 that. I wasn't ready to go because his next batch sort of

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02:53PM 2 relates to things I need to get in evidence before him.

02:53PM 3 MR. CONNORS: Think he'll get that far?

02:53PM 4 MR. TRIPI: No. I'll have that ready to go  
02:53PM 5 Friday. I have a problem. Every defense lawyer, it's a full  
02:53PM 6 day, every defense lawyer that I have a cooperator is like  
02:53PM 7 engaged. I anticipated Rob Osborne for Friday.

02:53PM 8 THE COURT: The FPD CLE is not a reason.

02:53PM 9 MR. TRIPI: Andrew Brodigan has a trial scheduled  
02:53PM 10 for three months. He couldn't Friday. He can Monday. Mark  
02:53PM 11 has Mike Long. He started a trial Monday. It's going two  
02:54PM 12 weeks, so running out of options. And I need to find what  
02:54PM 13 lawyer is not engaged in a trial to get ready for Friday.

02:54PM 14 THE COURT: Are you going to have a full day of  
02:54PM 15 testimony?

02:54PM 16 MR. TRIPI: I'm going to hitting the phones as  
02:54PM 17 heavily as I can.

02:54PM 18 THE COURT: I know, say whatever you want in terms  
02:54PM 19 of directives from me. I do not want to be down for a full day  
02:54PM 20 or even I don't want to waste the full day.

02:54PM 21 MR. TRIPI: I agree. We'll fill the day. It's a  
02:54PM 22 matter of me figuring out who I can get here and I'll drop your  
02:54PM 23 name if necessary.

02:54PM 24 THE COURT: You definitely can, because it's a  
02:54PM 25 full day. If the defense counsel going to be assisting on

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02:54PM 2 coming in here and sitting in a courtroom and watching the  
02:54PM 3 client. Definitely they can't say anything or do anything, but  
02:54PM 4 if they are going to assist on that, federal court takes  
02:55PM 5 precedence over any state court proceeding.

02:55PM 6 MR. TRIPI: My options might be speaking to Ms.  
02:55PM 7 Huffman about Mr. Koszuta. I don't believe she is in trial. I  
02:55PM 8 know she was going to visit him one last time for next end of  
02:55PM 9 the week so that was the only -- she hadn't got her last visit  
02:55PM 10 in with him and that she scheduled.

02:55PM 11 THE COURT: Where is he? Is he housed locally?

02:55PM 12 MR. TRIPI: I think he is in Niagara, so that is  
02:55PM 13 probably where I'm looking at in terms of some of the  
02:55PM 14 accommodating.

02:55PM 15 THE COURT: Okay.

02:55PM 16 MR. TRIPI: I'll work on it and let you know.

02:55PM 17 THE COURT: Okay. And we have our exhibit meeting  
02:55PM 18 at 1:30 p.m. tomorrow.

02:55PM 19 MR. TRIPI: Yes.

02:55PM 20 THE COURT: All right. Anything else, Mr. Tripi?

02:55PM 21 MR. TRIPI: No, your Honor.

02:55PM 22 THE COURT: Mr. Easton?

02:55PM 23 MR. EASTON: No, your Honor.

02:55PM 24 THE COURT: Mr. Covert?

02:55PM 25 MR. COVERT: No, your Honor.

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USA VS. D. PIRK, A. JENKINS & T ENIX

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THE COURT: Mr. Connors?

MR. CONNORS: No, your Honor.

THE COURT: Plan to be here by twenty of so that  
hopefully we can get started.

\* \* \*

CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript of the  
record of proceedings in the above-entitled matter.

S/ Karen J. Clark, RPR

Official Court Reporter